

**CALIFORNIA  
BOARD OF BARBERING AND COSMETOLOGY**



**JULY 11 - 12, 2011**

Board Meeting  
Department of Consumer Affairs  
2005 Evergreen Street  
1<sup>st</sup> Floor Hearing Room, Room 1150  
Sacramento, CA 95815



Deedee Crossett, Industry Member,  
President

Christie Truc Tran, Industry  
Member, Vice President

Richard Hedges, Public  
Member

Frank Lloyd, Public  
Member

Wen Ling Cheng, Public  
Member

Kristy Underwood  
Executive Officer

Edmund G. Brown Jr., Governor  
State of California

Department of Consumer Affairs  
Board of Barbering and Cosmetology

Telephone: (916) 575-7100

Website: [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov)

2420 Del Paso Road, Suite 100  
Sacramento, CA 95834

# California State Board of Barbering and Cosmetology

## Board Meeting Agenda

Monday, July 11, 2011

10:00 A.M. – 5:00 P.M.

Or until completion of business

Department of Consumer Affairs

2005 Evergreen Street

1<sup>st</sup> Floor Hearing Room, Room 1150

Sacramento, CA 95815

### **ALL TIMES ARE APPROXIMATE AND SUBJECT TO CHANGE**

#### **OPEN SESSION:**

1. Call to Order/Roll Call (**Deedee Crossett**)
2. Public Comment on Items not on the Agenda  
*Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]*
3. Board President's Report (**Deedee Crossett**)
4. Executive Officer Report (**Kristy Underwood**)
  - Review of Board Statistics
5. DCA Director's Report
6. Appointment of Committee Members
7. Approval of Board Meeting Minutes (**Deedee Crossett**)
  - April 25, 2011
  - April 26, 2011
8. Legislation Update and Adoption of Positions (**Kristy Underwood**)
  - AB 300- Safe Body Art Act
  - AB 797 - Cosmetology Schools
  - SB 498 - Transfer of BPPE to the CA Postsecondary Education Commission
  - SB 541- Subject Matter Experts
  - SB 706- Posting of Accusations
  - SB 746- Tanning Salons



# California State Board of Barbering and Cosmetology

## 9. Regulations Update and Approval (**Kristy Underwood**)

- Administrative Fine Schedule

Approval of the Second Modified Text for Section 974 of Division 9 of Title 16 of the California Code of Regulations that was noticed to the public on June 9, 2011; Consideration of any comments received during the public comment period ending June 24, 2011 and Approval of the Final Statement of Reasons.

- Disciplinary Guidelines

Approval of Final Statement of Reasons and Specific Language for Section 972 of Division 9 of Title 16 of the California Code of Regulations

- Scoring Methods in Examinations

Consideration of Comment and Approval of Final Statement of Reasons and Specific Language for Section 932 of Division 9 of Title 16 of the California Code of Regulations

- Curriculums

Consideration of Comment and Approval of Final Statement of Reasons and Specific Language for Sections 950.1, 950.4, 950.5, 962.3, 962.4, 962.5 and 962.6 of Division 9 of Title 16 of the California Code of Regulations

- Unregulated Practices

Consideration of Comments and Approval of Final Statement of Reasons and Specific Language to Adopt Section 966 of Division 9 of Title 16 of the California Code of Regulations

- Dishonored Check Fee

Approval of Final Statement of Reasons and Specific Language for Section 999 of Division 9 of Title 16 of the California Code of Regulations

## 10. Manicuring Technical Advisory Committee (**Kristy Underwood**)

- Review and Approval of Board Industry Bulletins
- Sample of Foot Spa Liners to be Displayed to the Board

## 11. Discussion and Proposal to Allow Written Exam at 1200 Hours (**Kristy Underwood**)

## 12. Discussion and Proposal to Expand the Extern Program to Public Schools (**Kristy Underwood**)

## 13. Public Comment

*Note: the Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125.7(a)]*

## 14. Agenda Items for Next Meeting

## 15. Closed Session to Discuss Enforcement Case

- Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3)).

## 16. Adjournment

A quorum of the Board will be present. Meetings of the Board of Barbering and Cosmetology are open to the public except when specifically noticed otherwise in accordance with the Open Meeting Act. The audience will be given appropriate opportunities to comment on any issue before the Board, but the Chair may apportion available time among those who wish to speak.

The meeting is accessible to the physically disabled. A person who needs disability-related accommodation or modification in order to participate in the meeting shall make a request no later than five (5) working days before the meeting to the Board by contacting Linda Sakauye at (916) 575-7144 or sending a written request to that person at the address noted above.

*No Attachment*



**Quarterly Barbering and Cosmetology  
Licensing Statistics  
Fiscal Year 10/11**

**Applications Received**

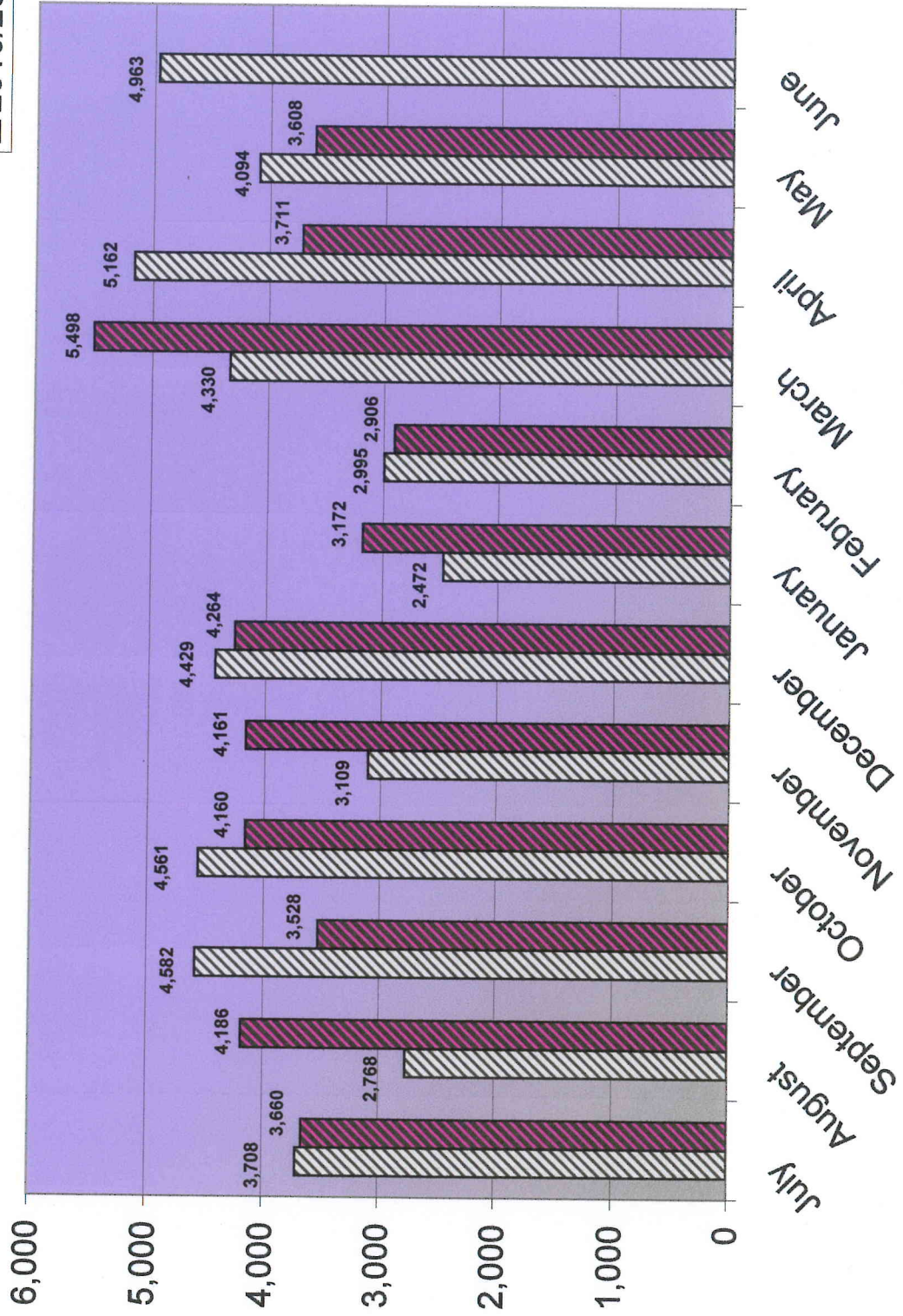
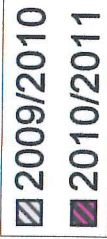
	Jul-Sept	Oct-Dec	Jan- Mar	Apr-May	YTD*
Establishment	1,467	1,488	1,517	1,051	5,523
Barber	435	452	472	315	1,674
Barber Apprentice	63	49	97	48	257
Cosmetology	5,519	6,067	5,595	3,548	20,729
Cosmetology Apprentice	102	133	135	79	449
Electrology	7	8	8	8	31
Manicuring	1,980	2,268	1,830	1,213	7,291
Esthetician	1,801	2,120	1,885	1,057	6,863
<b>Total</b>	<b>11,374</b>	<b>12,585</b>	<b>11,539</b>	<b>7,319</b>	<b>42,817</b>

**Licenses Issued**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-May	YTD*
Establishment	1,667	1,302	1,376	1,141	5,486
Barber	367	215	309	192	1,083
Barber Apprentice	69	42	67	67	245
Cosmetology	3,107	2,833	2,532	1,873	10,345
Cosmetology Apprentice	103	123	96	101	423
Electrology	2	3	2	5	12
Manicuring	1,038	1,072	1,075	750	3,935
Esthetician	1,269	1,030	1,111	787	4,197
<b>Total</b>	<b>7,622</b>	<b>6,620</b>	<b>6,568</b>	<b>4,916</b>	<b>25,726</b>

\* June 2011 data not available at this time.

## Number of Applications Received





## Examination Results (April 1, 2011- May 31, 2011)

### Practical Examinations

Administered	Passed	Failed	Total	Pass Rate	*DNA
Barber	180	31	211	85%	45
Cosmetologist	1,990	670	2,660	75%	517
Esthetician	855	116	971	88%	97
Electrologist	5	0	5	0%	0
Manicurist	765	207	972	79%	90
<b>TOTAL</b>	<b>3,795</b>	<b>1,024</b>	<b>4,819</b>	<b>79%</b>	<b>749</b>

\* Did Not Attend

### Written Examinations

Barber	Passed	Failed	Total	Pass Rate
English	161	30	191	84%
Spanish	10	2	12	83%
Vietnamese	8	0	8	100%
<b>TOTAL</b>	<b>179</b>	<b>32</b>	<b>211</b>	<b>85%</b>

Cosmetologist	Passed	Failed	Total	Pass Rate
English	1,726	672	2,398	72%
Spanish	97	177	274	35%
Vietnamese	60	83	143	42%
<b>TOTAL</b>	<b>1,883</b>	<b>932</b>	<b>2,815</b>	<b>67%</b>

Manicurist	Passed	Failed	Total	Pass Rate
English	144	76	220	65%
Spanish	11	5	16	69%
Vietnamese	586	239	825	71%
<b>TOTAL</b>	<b>741</b>	<b>320</b>	<b>1,061</b>	<b>70%</b>

Esthetician	Passed	Failed	Total	Pass Rate
English	574	185	759	76%
Spanish	1	1	2	50%
Vietnamese	188	132	320	59%
<b>TOTAL</b>	<b>763</b>	<b>318</b>	<b>1,081</b>	<b>71%</b>

Electrologist	Passed	Failed	Total	Pass Rate
English	5	0	5	100%
Spanish	0	0	0	0%
Vietnamese	0	0	0	0%
<b>TOTAL</b>	<b>5</b>	<b>0</b>	<b>5</b>	<b>100%</b>



## WRITTEN EXAMINATION STATISTICS

EXAM TYPE		ENGLISH				SPANISH				VIETNAMESE				Overall Pass/Fail Rates				
		PASSED	FAILED	TOTAL	% PASSED	% FAILED	PASSED	FAILED	TOTAL	% PASSED	% FAILED	PASSED	FAILED					TOTAL
Sep-10	BARBER	88	19	107	82%	18%	4	1	5	80%	20%	4	1	5	80%	20%	Eng 735 200 935	p f t Span 40 11 51 Viet 37 3 40 812 214 1,026 79% 21%
Oct-10		68	15	83	82%	18%	2	0	2	100%	0%	4	0	4	100%	0%		
Nov-10		54	19	73	74%	26%	2	2	4	50%	50%	4	1	5	80%	20%		
Dec-10		71	18	89	80%	20%	2	1	3	67%	33%	3	0	3	100%	0%		
Jan-11		89	26	115	77%	23%	6	2	8	75%	25%	4	0	4	100%	0%		
Feb-11	104	29	133	78%	22%	8	0	8	100%	0%	5	1	6	83%	17%			
Mar-11	100	44	144	69%	31%	6	3	9	67%	33%	5	0	5	100%	0%			
Apr-11	64	18	82	78%	22%	4	0	4	100%	0%	5	0	5	100%	0%			
May-11	97	12	109	89%	11%	6	2	8	75%	25%	3	0	3	100%	0%			
	TOTAL	735	200	935	79%	21%	40	11	51	78%	22%	37	3	40	93%	8%		
Sep-10	COSMETOLOGY	1,015	320	1,335	76%	24%	54	101	155	35%	65%	25	55	80	31%	69%	Eng 7,984 2,815 10,799 Span 425 841 1,266 Viet 266 444 710 8,675 4,100 12,775 68% 32%	
Oct-10		854	289	1,143	75%	25%	46	93	139	33%	67%	33	52	85	39%	61%		
Nov-10		842	293	1,135	74%	26%	51	88	139	37%	63%	36	47	83	43%	57%		
Dec-10		886	329	1,215	73%	27%	49	94	143	34%	66%	27	59	86	31%	69%		
Jan-11		840	304	1,144	73%	27%	39	107	146	27%	73%	31	52	83	37%	63%		
Feb-11	882	268	1,150	77%	23%	46	90	136	34%	66%	25	45	70	36%	64%			
Mar-11	939	340	1,279	73%	27%	43	91	134	32%	68%	29	51	80	36%	64%			
Apr-11	912	293	1,205	76%	24%	49	83	132	37%	63%	31	42	73	42%	58%			
May-11	814	379	1,193	68%	32%	48	94	142	34%	66%	29	41	70	41%	59%			
	TOTAL	7,984	2,815	10,799	74%	26%	425	841	1,266	34%	66%	266	444	710	37%	63%		
Sep-10	MANICURIST	90	60	150	60%	40%	1	2	3	33%	67%	229	178	407	56%	44%	Eng 807 362 1,169 Span 25 18 43 Viet 2,458 1,262 3,720 3,290 1,642 4,932 67% 33%	
Oct-10		96	46	142	68%	32%	2	2	4	50%	50%	214	142	356	60%	40%		
Nov-10		86	35	121	71%	29%	2	0	2	100%	0%	261	159	420	62%	38%		
Dec-10		118	40	158	75%	25%	1	2	3	33%	67%	310	180	490	63%	37%		
Jan-11		97	48	145	67%	33%	4	3	7	57%	43%	331	163	494	67%	33%		
Feb-11	79	27	106	75%	25%	2	1	3	67%	33%	242	101	343	71%	29%			
Mar-11	97	30	127	76%	24%	2	3	5	40%	60%	285	100	385	74%	26%			
Apr-11	71	33	104	68%	32%	4	5	9	44%	56%	328	129	457	72%	28%			
May-11	73	43	116	63%	37%	7	0	7	100%	0%	268	110	368	70%	30%			
	TOTAL	807	362	1,169	69%	31%	25	18	43	58%	42%	2,458	1,262	3,720	66%	34%		
Sep-10	ESTHETICIAN	260	81	341	76%	24%	0	4	4	0%	100%	118	129	247	48%	52%	Eng 2,334 763 3,097 Span 3 10 13 Viet 779 812 1,591 3,116 1,585 4,701 66% 34%	
Oct-10		206	80	286	72%	28%	1	0	1	100%	0%	107	80	187	57%	43%		
Nov-10		226	81	307	74%	26%	0	2	2	0%	100%	115	93	208	55%	45%		
Dec-10		258	77	335	77%	23%	1	1	2	50%	50%	138	81	219	63%	37%		
Jan-11		280	91	371	75%	25%	0	0	0	0%	0%	106	94	200	53%	47%		
Feb-11	246	67	313	79%	21%	0	0	0	0%	0%	107	75	182	59%	41%			
Mar-11	284	101	385	74%	26%	0	2	2	0%	100%	106	74	180	59%	41%			
Apr-11	251	86	337	74%	26%	1	1	2	50%	50%	78	60	138	57%	43%			
May-11	323	99	422	77%	23%	0	0	0	0%	0%	110	72	182	60%	40%			
	TOTAL	2,334	763	3,097	75%	25%	3	10	13	23%	77%	779	812	1,591	49%	51%		
Sep-10	ELECTROLOGY	0	1	1	0%	100%	0	0	0	0%	0%	0	0	0	0%	0%	Eng 9 1 5 Span 0 0 0 Viet 0 0 0 9 1 5 180% 20%	
Oct-10		1	0	1	100%	0%	0	0	0	0%	0%	0	0	0	0%	0%		
Nov-10		0	0	0	0%	0%	0	0	0	0%	0%	0	0	0	0%	0%		
Dec-10		2	0	2	100%	0%	0	0	0	0%	0%	0	0	0	0%	0%		
Jan-11		1	0	1	100%	0%	0	0	0	0%	0%	0	0	0	0%	0%		
Feb-11	0	0	0	0%	0%	0	0	0	0%	0%	0	0	0	0%	0%			
Mar-11	0	0	0	0%	0%	0	0	0	0%	0%	0	0	0	0%	0%			
Apr-11	3	0	3	100%	0%	0	0	0	0%	0%	0	0	0	0%	0%			
May-11	2	0	2	100%	0%	0	0	0	0%	0%	0	0	0	0%	0%			
	TOTAL	9	1	5	180%	20%	0	0	0	0	0	0	0	0	0	0		





State and Consumer Services Agency – Governor Edmund G. Brown Jr.  
 BOARD OF BARBERING AND COSMETOLOGY  
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## QUARTERLY BARBERING AND COSMETOLOGY DISCIPLINARY REVIEW COMMITTEE STATISTICS

Fiscal Year 10-11

Report Date: May 31, 2011

	April - May	YTD
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### SOUTHERN

Heard	266	1,450
Received	370	2,007
Pending <sup>1</sup>	1,193	1,193 <sup>2</sup>

### NORTHERN

Heard	197	890
Received	171	1,090
Pending <sup>1</sup>	583	583 <sup>2</sup>

<sup>1</sup> Pending refers to the number of appeals received but not yet heard by DRC.

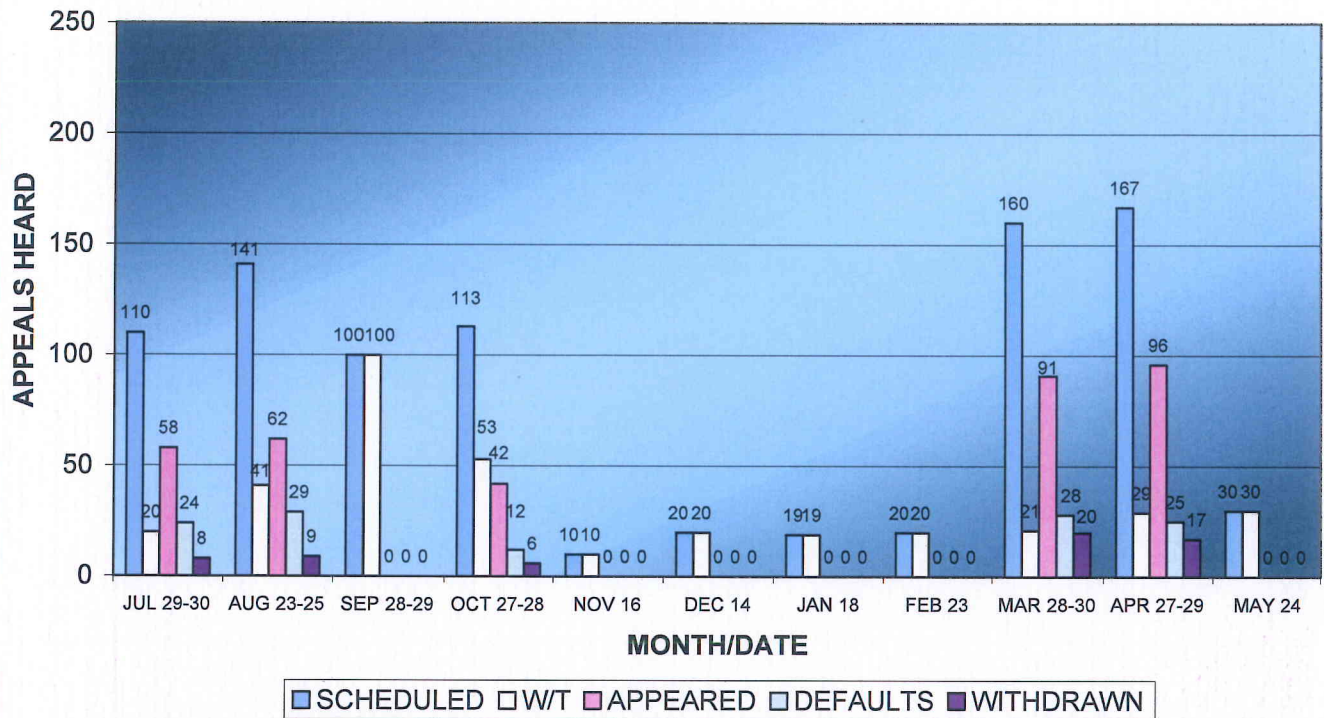
<sup>2</sup> Figure represents number of pending requests as of report date.

### 2011 SCHEDULED HEARINGS

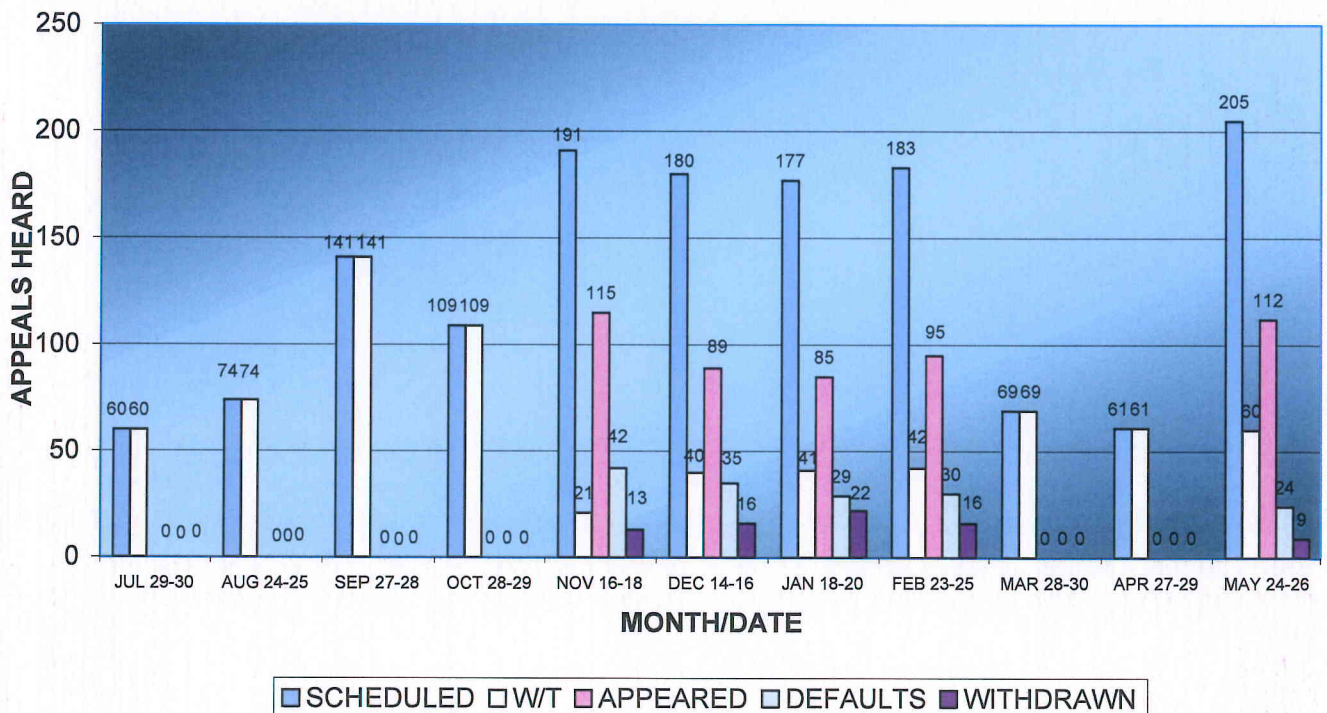
Area	Location	Date
Northern	Sacramento	July 13-15, 2011
Northern	Sacramento	August 22-24, 2011
Southern	Los Angeles	September 27-29, 2011 <sup>3</sup>
Southern	Los Angeles	October 25-27, 2011 <sup>3</sup>
Southern	Los Angeles	November 15-17, 2011 <sup>3</sup>
Southern	Los Angeles	December 13-15, 2011 <sup>3</sup>

<sup>3</sup> Tentative hearing dates.

### NORTHERN DRC HEARINGS (Fiscal Year 10-11)

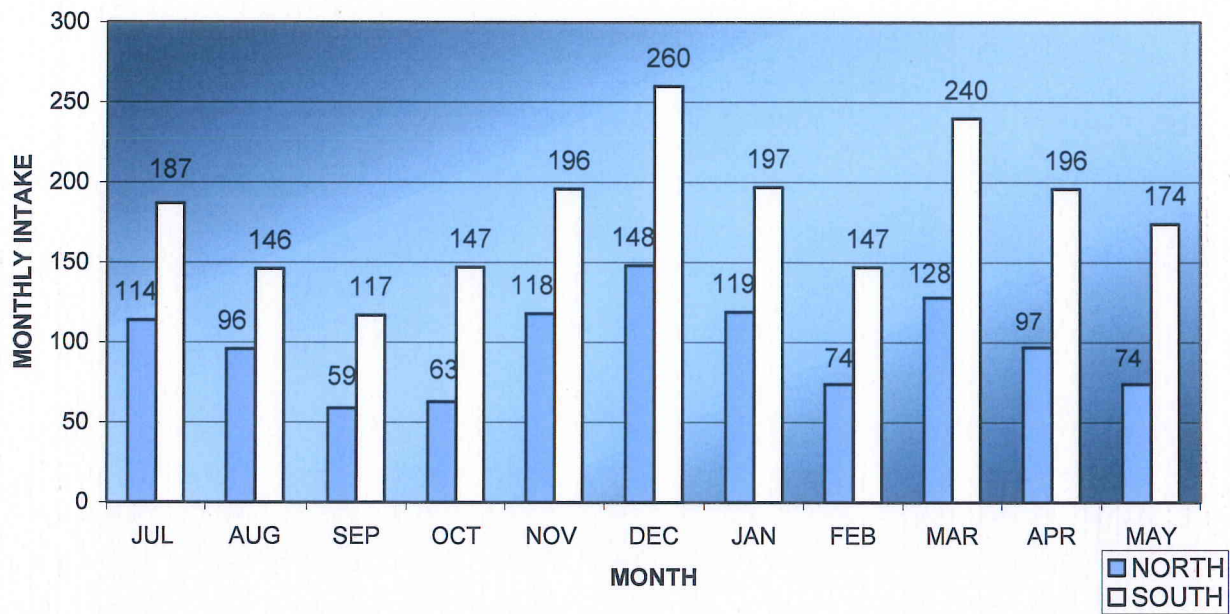


### SOUTHERN DRC HEARINGS (Fiscal Year 10-11)

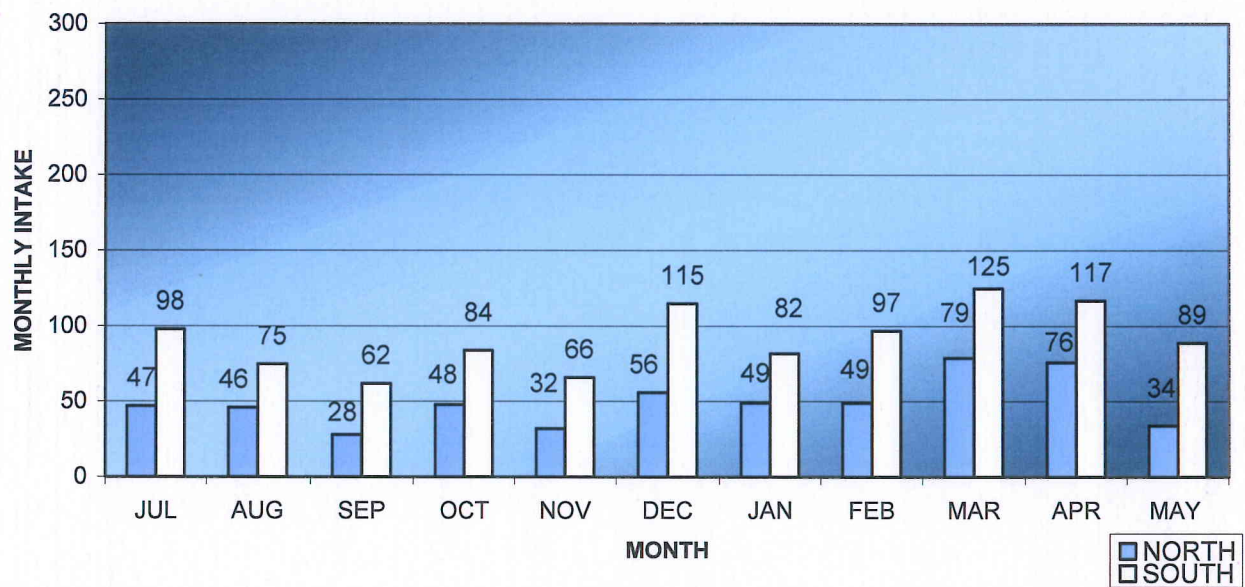




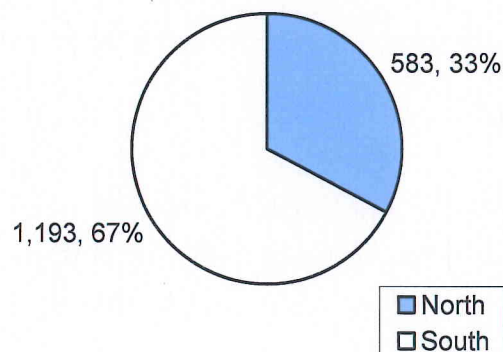
### DRC MONTHLY INCOMING APPEALS (Fiscal Year 10-11)



### DRC MONTHLY INCOMING WT APPEALS (Fiscal Year 10-11)



### DRC APPEALS WAITING TO BE HEARD/SCHEDULED (As of May 31, 2011)



**QUARTERLY BARBERING AND COSMETOLOGY  
ENFORCEMENT STATISTICS Fiscal Year 10/11  
Report Date June 22, 2011**

	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD*
<b>COMPLAINTS**</b>					
Complaints Received	751	716	910	664	3041
Referred to DOI	14	15	8	3	40
Complaints Closed	1199	1146	1194	916	4455
Total Complaints Pending	929	857	931	1025	1025
<b>APPLICATION INVESTIGATIONS**</b>					
Received	448	362	381	295	1486
Pending	98	71	57	75	75
Closed	441	390	395	277	1503
<b>ATTORNEY GENERAL **</b>					
Referred	24	26	20	23	93
Accusations Filed	10	12	11	9	42
Statement of Issues Filed	1	0	1	1	3
Total Pending	98	91	88	87	87
<b>DISCIPLINARY PROCESS**</b>					
Proposed Decision	1	3	2	5	11
Default Decision	5	4	5	8	22
Stipulation	7	9	6	3	25
<b>DISCIPLINARY OUTCOMES**</b>					
Revocation	9	8	6	12	35
Revoke, Stay, Probation	2	5	1	2	10
Revoke, Stay, Suspend/Prob	12	4	6	3	25
Revocation, Stay w/ Suspend	0	0	0	0	0
Probation Only	0	0	0	0	0
Suspension Only	0	0	0	0	0
Suspension & Probation	0	0	0	0	0
Suspension, Stay, Probation	4	6	14	11	35
Surrender of License	1	0	3	1	5
Public Reprimands	0	0	0	0	0
License Denied	1	0	0	0	1
Other	0	0	0	0	0
Total	29	23	30	29	111
<b>PROBATION**</b>					
Active	267	247	233	216	216
	Jul-Sept	Oct-Dec	Jan- Mar	Apr-Jun	YTD
<b>CITATIONS*</b>					
Establishments	2115	1867	2226	1119	7327
Barber	143	122	150	54	469
Barber Apprentice	16	8	10	2	36
Cosmetologist	771	663	773	391	2598
Cosmetologist Apprentice	2	14	12	3	31
Electrologist	1	0	1	0	2
Electrologist Apprentice	0	0	0	0	0
Manicurist	505	443	513	290	1751
Esthetician	75	36	60	28	199
Unlicensed Est.	130	151	165	65	511
Unlicensed Individual	132	145	144	82	503
Total	3890	3449	4054	2034	13427
<b>INSPECTIONS*</b>					
Establishments w/ violations	1480	1971	2190	1125	6766
Establishments w/o violations	369	487	305	456	1617
Total	1849	2458	2495	1581	8383

\*Reporting Inspections and Citations through May 2011. Still inputting June data.

\*\* Reporting Complaints, Application Investigations, Attorney General, Disciplinary Process, Disciplinary Outcomes, and Probation for the Months of April 2011 and May 2011. June Statistics had not been calculated at the time report information was requested (June 22, 2011).





State and Consumer Services Agency – Governor Edmund G. Brown Jr

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## **Budget Updates**

### **Constraints:**

On April 26, 2011, the Governor issued an Executive Order B-06-11 ordering No travel, either in state or out-of-state, is permitted unless it is mission critical or there is no cost to the state. The board prepared a reduction plan for FY 2010-11. The plan included eliminating the attendance to all outreach events and two (2) staff members will be traveling to conduct the scheduled disciplinary review hearings in Southern CA. All travel must be mission critical and pre-approved by the Boards' Executive Officer.

### **Attachment 1 Governor Executive Order B-06-11**

#### **1. Budget 2010/11 Fiscal Year (July 2010 - June 2011):**

**Chart 1** displays the revenues received as of May 31, 2011.

**Chart 2** displays the expenditures as of May 31, 2011.

**Attachment 3** displays projected expenditures for end of the year.

## EXECUTIVE ORDER B-06-11

4-26-2011

WHEREAS the Governor's 2011-12 budget proposes to close the state's structural budget deficit in part through increased efficiency that will substantially reduce state operational expenses; and

WHEREAS since the beginning of this Administration, Executive Orders and other directives have been issued to restrict hiring in state government, drastically reduce the number of state cell phones and vehicles, and stop spending taxpayer dollars on free giveaway and gift items; and

WHEREAS the Governor's 2011-12 budget proposes to cut state operational expenses by reducing discretionary expenditures and increasing efficiency; and

WHEREAS restricting both in-state and out-of-state travel to only non-discretionary purposes will further reduce operational expenditures.

WHEREAS the Governor's 2011-12 budget proposes a reduction of \$413 million (\$250 million from the General Fund) in state operation efficiencies and other savings; and

WHEREAS restrictions on travel are necessary to help achieve these savings; and

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, by virtue of the power vested in me by the Constitution and the statutes of the State of California, do hereby issue the following orders to become effective immediately:

IT IS ORDERED that discretionary travel is prohibited. All in-state non-discretionary travel must be approved by Agency Secretaries or Department Directors who do not report to an Agency Secretary. All out-of-state travel must be approved by the Governor's Office.

IT IS FURTHER ORDERED that the new travel restrictions are as follows:

1. No travel, either in-state or out-of-state, is permitted unless it is mission critical or there is no cost to the state.

Mission critical means travel that is directly related to:

- Enforcement responsibilities.
- Auditing.
- Revenue collection.
- A function required by statute, contract or executive directive.
- Job-required training necessary to maintain licensure or similar standards required for holding a position.

Mission critical does not mean travel to attend:

- Conferences (even those that historically have been attended).
- Networking opportunities.
- Professional development courses.
- Continuing education classes and seminars.
- Non-essential meetings that can be conducted by phone or video conference.
- Events for the sole purpose of making a presentation unless approved by the Department Director.

2. No travel is permitted for more than the minimum number of travelers necessary to accomplish the mission-critical objective. This restriction applies even when there is no cost to the state.

3. Agency Secretaries or Department Directors who do not report to an Agency Secretary may authorize in-state travel when the request conforms to the principles identified above.

4. As referenced in Budget letter 11-06, Agencies and Departments must submit their out-of-state travel requests to the Governor's office by May 6, 2011. No substitutions will be allowed for trips approved per this Budget Letter.

5. The Department of Finance will issue all necessary instructions and forms to implement this restriction on state travel. In addition, the Department of Finance will work with agencies and departments to develop targets for budgetary reductions in lieu of travel restrictions. Departments that achieve their target budget reductions, as determined by the Director of the Department of Finance, may seek exemption from the provisions of this executive order.

IT IS REQUESTED that other entities of State government not under my direct executive authority conduct an analysis to determine the discretionary nature of their travel in order to reduce unnecessary costs.

This Executive Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of California or its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order shall be filed with the Office of the Secretary of State and that it be given widespread publicity and notice.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 26th day of April 2011.

## Latest News



[Governor Brown to Hold Press Availability Tomorrow in LA](#) 06-15-2011



[Governor Brown Issues Statement on Death of South Pasadena Police Department Officer](#) 06-15-2011



[Governor and First Lady Honor Lance Cpl. Nicholas S. O'Brien](#) 06-15-2011



[Governor Brown Issues Proclamation Declaring Flag Day](#) 06-14-2011



[Governor and First Lady Honor Spc. Christopher B. Fishbeck](#) 06-14-2011



[Governor Brown Orders Wildfire Awareness and Prevention](#) 06-14-2011



[Governor Brown Signs Legislation](#) 06-13-2011



[Governor Brown and California Leaders to Urge Legislature to Pass Balanced, No-Gimmicks Budget](#) 06-13-2011



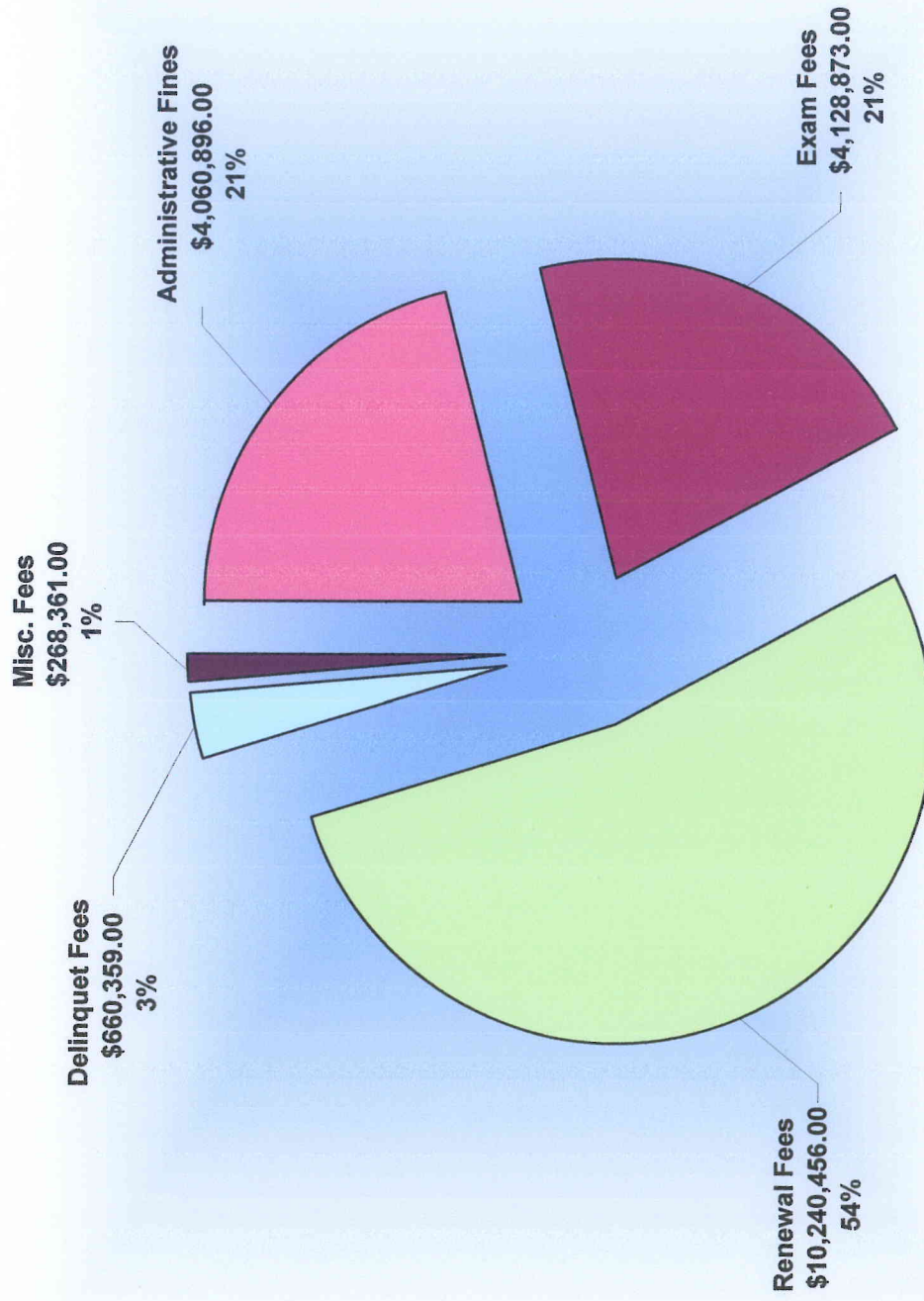
[Governor Brown Issues Budget Update Via YouTube](#) 06-12-2011



[Governor Brown to Attend Firefighter Funeral and Oakland School for the Arts Graduation Tomorrow](#) 06-09-2011

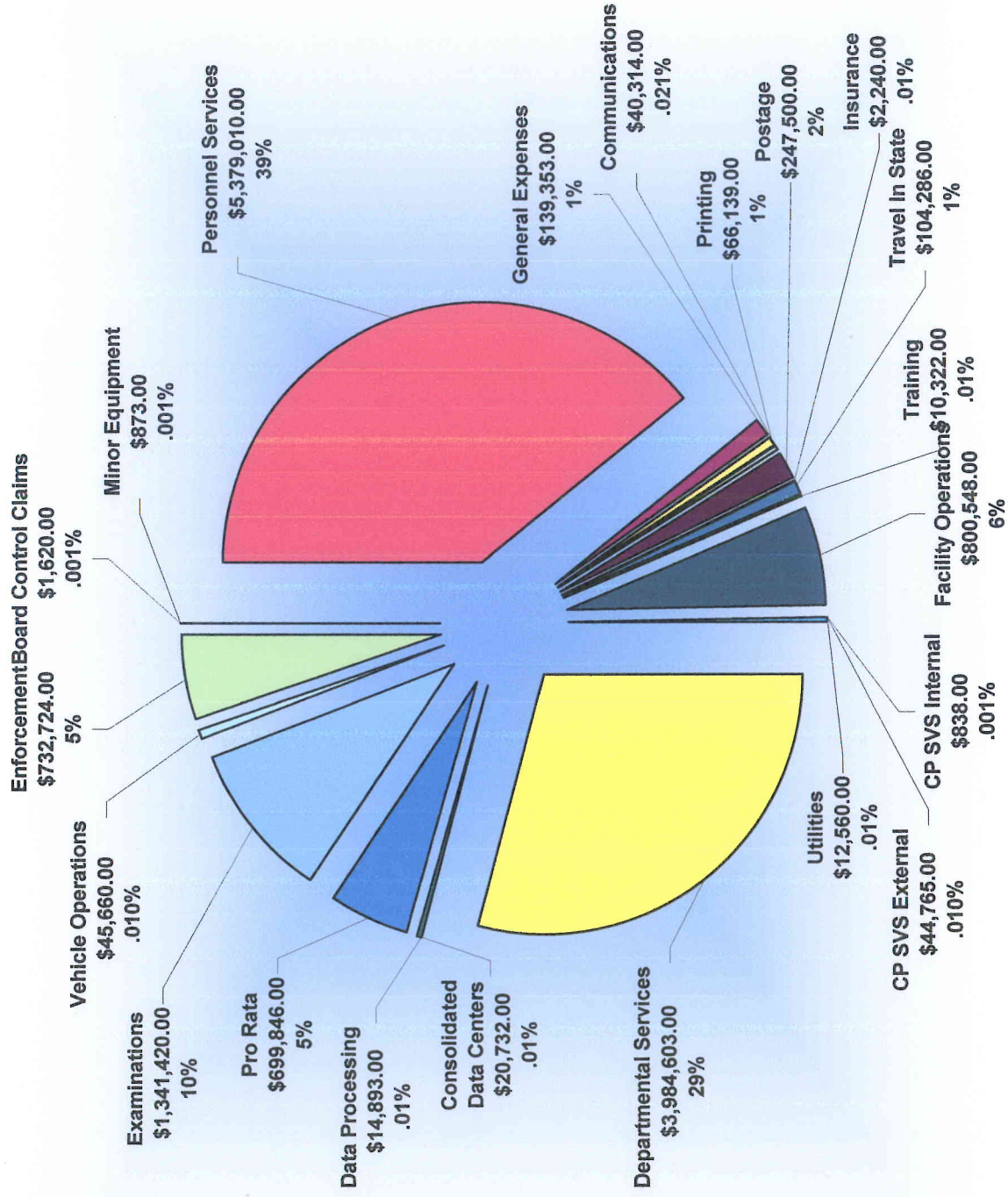


**Monthly Budget Report**  
**Revenues**  
**(As of 05/31/11)**



**As of 05/31/11**  
**\$19,358,945**

**Monthly Budget Report**  
**Expenditures**  
**(As of 05/31/11)**



As of 05/31/11  
**\$13,690,246**



**Board of Barbering and Cosmetology**  
**Fiscal Year 2010/2011**  
**Projected Expenditures 05/31/11**

Personnel Services	ALLOTMENT	BBC Projected Expenditures	Projected Year
Permanent	3,920,690	3,723,645	197,045
Expert Examiners	464,259	464,259	0
Temporary	134,916	134,916	0
Statutory-Exempt	103,308	103,308	0
Board Member Commission	0	17,200	(17,200)
Overtime	0	10,000	(10,000)
<b>Total Salary &amp; Wages</b>	<b>4,623,173</b>	<b>4,453,328</b>	<b>169,845</b>
Salary Savings	(155,368)	0	(155,368)
5% Salaray Savings	0	278,460	(278,460)
<b>Net Salary &amp; Wages</b>	<b>4,467,805</b>	<b>4,731,788</b>	<b>(263,983)</b>
Staff Benefits	1,900,263	1,900,263	0
<b>Total of Personnel Servies</b>	<b>6,368,068</b>	<b>6,632,051</b>	<b>(263,983)</b>
Operating Expenses & Equipment (OE&E)	Allotment	BBC Projected Expenditures	Projected Year End Balance
General Expense	264,500	200,000	64,500
Printing	243,995	241,995	2,000
Communication	110,722	110,477	245
Postage	339,384	300,000	39,384
Insurance	4,489	2,500	1,989
Travel In State	82,789	105,000	(22,211)
Travel, Out-of-State	0	0	0
Training	24,513	20,000	4,513
Facilities Operations	1,327,231	1,327,231	0
Consultant & Professional Svs. - Interdept.	125,781	90,000	35,781
Consultant & Professional Svs. - External	196,947	196,947	0
Depart. and Central Admin. Services	5,514,424	5,490,943	23,481
Consolidated Data Center	70,088	70,088	0
Examinations	1,354,034	1,354,034	0
Major Equipment	189,390	50,000	139,390
Minor Equipment	15,000	15,000	0
Data Processing	0	2,000	(2,000)
Other Items of Expense	7,288	5,000	2,288
Vehicle Operations	14,772	45,000	(30,228)
Enforcement	1,746,520	1,112,837	633,683
Special Items of Expenses	0	0	0
Required OE&OSavings		171,022	(171,022)
<b>Total Operating Expenses &amp; Equipment</b>	<b>11,631,867</b>	<b>10,910,074</b>	<b>721,793</b>
Total reimbursements	(57,000)		(57,000)
<b>Total</b>	<b>17,942,935</b>	<b>17,542,125</b>	<b>664,793</b>

# 0069 - Barbering and Cosmetology

## Analysis of Fund Condition

Prepared 2/9/11

(Dollars in Thousands)

**NOTE: \$10 Million General Fund Repayment Outstanding**

**Proposed FY 2011/12 GF Loan With Repay**

	GOVERNOR'S					
	BUDGET					
	Actual	CY	BY	BY+1	BY+2	BY+3
	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
<b>BEGINNING BALANCE</b>	\$ 6,066	\$ 10,104	\$ 11,258	\$ 1,612	\$ 2,631	\$ 14,291
Prior Year Adjustment	\$ 179	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 6,245	\$ 10,104	\$ 11,258	\$ 1,612	\$ 2,631	\$ 14,291
<b>REVENUES AND TRANSFERS</b>						
Revenues:						
125600 Other regulatory fees	\$ 3,994	\$ 3,733	\$ 4,669	\$ 4,669	\$ 4,669	\$ 4,669
125700 Other regulatory licenses and permits	\$ 4,604	\$ 4,731	\$ 4,826	\$ 4,826	\$ 4,826	\$ 4,826
125800 Renewal fees	\$ 9,890	\$ 9,293	\$ 9,464	\$ 9,464	\$ 9,464	\$ 9,464
125900 Delinquent fees	\$ 660	\$ 588	\$ 600	\$ 600	\$ 600	\$ 600
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
150300 Income from surplus money investments	\$ 65	\$ 93	\$ 119	\$ 52	\$ 65	\$ 290
150500 Interest Income from Interfund Loans	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
160400 Sale of fixed assets	\$ 1	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 25	\$ -	\$ -	\$ -	\$ -	\$ -
161400 Miscellaneous revenues	\$ 9	\$ -	\$ 7	\$ 7	\$ 7	\$ 7
Totals, Revenues	\$ 19,248	\$ 18,438	\$ 19,685	\$ 19,618	\$ 19,631	\$ 19,856
Transfers from Other Funds						
Proposed GF Loan Repayment					\$ 11,000	
Transfers to Other Funds						
Proposed GF Loan			\$ -11,000			
Totals, Revenues and Transfers	\$ 19,248	\$ 18,438	\$ 8,685	\$ 19,618	\$ 30,631	\$ 19,856
Totals, Resources	\$ 25,493	\$ 28,542	\$ 19,943	\$ 21,230	\$ 33,262	\$ 34,147
<b>EXPENDITURES</b>						
Disbursements:						
0840 State Controller (State Operations)	\$ 11	\$ 27	\$ 19	\$ -	\$ -	\$ -
1110 Program Expenditures (State Operations)	\$ 15,378	\$ 17,394	\$ 18,234	\$ 18,599	\$ 18,971	\$ 19,350
1111 Program Expenditures (State Operations)						
BreEze funding re-alignment		\$ -148				
8880 Financial Information System for California (State Ops)	\$ -	\$ 11	\$ 78	\$ -		\$ -
9670 Equity Claims / Board of Control (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Disbursements	\$ 15,389	\$ 17,284	\$ 18,331	\$ 18,599	\$ 18,971	\$ 19,350
<b>FUND BALANCE</b>						
Reserve for economic uncertainties	\$ 10,104	\$ 11,258	\$ 1,612	\$ 2,631	\$ 14,291	\$ 14,797
<b>Months in Reserve</b>	7.0	7.8	1.0	1.7	8.9	9.0

### NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
- B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2011-12





State and Consumer Services Agency – Governor Edmund G. Brown Jr  
**BOARD OF BARBERING AND COSMETOLOGY**  
P.O. Box 944226, Sacramento, CA 94244-2260  
P (800) 952-5210 F (916) 575-7281 [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov)



### **2011 Outreach/Industry Events**

- None

On April 26, 2011, the Governor issued an Executive Order B-06-11 ordering No travel, either in state or out-of-state, is permitted unless it is a mission critical or there is no cost to the state.

*No Attachment*





State and Consumer Services Agency – Governor Edmund G. Brown Jr.  
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## **COMMITTEE DESCRIPTIONS**

### **LICENSING AND EXAMINATION COMMITTEE**

The purpose of the Licensing and Examination Committee is to advise the Board on policy matters relating to the examining and licensing of individuals who want to practice barbering and cosmetology in California. The committee may also provide information and recommendations to the Board on issues relating to curriculum and school approval, exam appeals, laws and regulations.

### **ENFORCEMENT AND INSPECTIONS COMMITTEE**

The purpose of the Enforcement and Inspections Committee is to advise the Board on policy matters that relate to protecting the health and safety of consumers. This includes recommendations on how inspections are conducted, the types of violations issued, maintenance of disciplinary guidelines, and other recommendations on the enforcement of the Board's statutes and regulations.

### **LEGISLATIVE AND BUDGET COMMITTEE**

The purpose of the Legislative and Budget Committee is to review and track legislation that affects the Board and recommends positions on legislation. Provides information and recommendations to the Board on potential policy matters relating to the budget.

### **EDUCATION AND OUTREACH COMMITTEE**

The purpose of the Education and Outreach Committee is to provide recommendations to the Board on the development of informational brochures and other publications, planning of outreach events for consumers and licensees, preparing articles for submission in trade magazines, attending trade shows.

### **DISCIPLINARY REVIEW COMMITTEE**

The purpose of the Disciplinary Review Committee is to conduct informal administrative citation review hearings and renders decisions regarding disputed citations. The committee has authority to affirm, modify or dismiss the citations including any fine. The Board President shall annually appoint members of the committee, the appointments will be made concurrently with the annual election of officers. The Board President shall select the dates and locations of the informal citation review hearings held before the disciplinary review committee. The Board may find a need to have an alternate member for the convenience of those members who cannot attend. The Committee meets on a monthly basis.

## **CALIFORNIA STATE BOARD OF BARBERING AND COSMETOLOGY**

**MINUTES OF APRIL 25, 2011**

**Department of Consumer Affairs  
1625 North Market Blvd.  
1<sup>st</sup> Floor Hearing Room, S-102  
Sacramento, CA 95834**

### **BOARD MEMBERS PRESENT**

Deedee Crossett  
Christie Tran  
Marie Lemelle  
Frank Lloyd  
Richard Hedges

### **STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Hilda Youngblood, Asst. Executive Officer  
Gary Duke, Staff Counsel  
Theresa Rister, Board Analyst  
Linda Sakauye, Board Analyst

#### **1. Agenda Item #1, CALL TO ORDER/ROLL CALL**

President Richard Hedges called the meeting to order. The board members and staff members introduced themselves.

#### **2. Agenda Item #2, PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA**

Fred Jones from the Professional Beauty Federation of California (PBFC) reminded the board about the 11<sup>th</sup> Annual Welcome to Our World event being held today at the State Capitol, south steps, from 3:00 p.m. – 7:00 p.m.

#### **3. Agenda Item #3, BOARD PRESIDENT'S REPORT**

Mr. Hedges provided a brief summary of his activities during his presidency. He commended past members and staff for their hard work. He also commended the board inspectors and stated that he enjoyed his numerous ride-alongs. He discussed various accomplishments by the Board and Department including the Administrative Fine Schedule and National Exam and Scoring Method. He hoped the Strategic Plan continued to progress and move forward. He welcomed the various college students and teachers in attendance and commented that he had enjoyed his visit to Skyline's new facility.

Mr. Lloyd commended Mr. Hedges for his commitment and leadership to the Board. The Board fully agreed.

#### **4. Agenda Item #4, ANNUAL ELECTION OF OFFICERS**

Mr. Hedges nominated Ms. Crossett for President. Ms. Lemelle seconded the motion and it was approved by a 5-0 vote. Mr. Hedges nominated Ms. Tran for Vice President. Mr. Lloyd seconded



the motion and it was approved by a 5-0 vote. Mr. Hedges handed the gavel to Ms. Crossett.

**5. Agenda Item #5, EXECUTIVE OFFICER REPORT**

Ms. Underwood thanked Mr. Hedges for his support in the last year as president.

- **Review of Board Statistics:** Ms. Underwood reviewed Board statistics and informed Board that they are pursuing the contract for the national exam and hoped to have it completed by end of the week. The implementation of the national exam is currently under technical review and will be resolved very soon. A collection agency has been contracted to pursue licensees with past due fines. There is an outstanding balance of \$79,000.

There is a statewide hiring freeze. Over 1,000 licensing applications received in March; Licensing Unit worked overtime in April; budget being watched very closely. Three new licensing staff hired. CPS is conducting a classification study of the Inspector class series.

Mr. Hedges brought to the Board's attention a conflict of interest matter (Hiram Johnson Reform Act) regarding the acceptance of a free transportation ticket. Mr. Hedges believes the acceptance of a free transportation ticket is in violation of Government Code Section 89506. Mr. Duke offered to research and stated that he would provide an update at next Board meeting.

Next Board meeting/reinstatement hearing scheduled for June 13-14, 2011 at the Holiday Inn, Orange County. Disciplinary Review Committee (DRC) hearings scheduled for June 15-17, 2011 at Holiday Inn, Orange County. Ms. Crossett commented to have DRC hearings after Reinstatement hearings, better for her, and more cost effective.

**6. Agenda Item #6, DCA DIRECTOR'S REPORT**

Kim Kirchmeyer, DCA Deputy Director, provided an update on projects and other activities of the department. She provided information on the hiring freeze, effective February 15, 2011 including the freeze exemption request process which requires Department of Finance approval. Six exemptions have been approved; 35 exemptions pending approval.

She also discussed the Consumer Protection and Enforcement Initiative. The third set of performance measures are being worked on and will be reviewed by each Board. Improvements and issues of enforcement programs are also being reviewed. An update will be provided at a future meeting.

Ms. Kirchmeyer provided information on the State Vehicle Executive Order issued on January 27, 2011. The Department had asked boards and bureaus to complete the analysis of vehicles and to ensure compliance with the order. She clarified the home storage permit which allows board inspectors to store their vehicle at their home rather than a state garage. Mr. Hedges expressed concern about having more inspectors than vehicles once all inspector positions were filled.

Ms. Kirchmeyer provided information on the BREEZE Project. She thanked the Board and Ms. Underwood for their support and input. Costs were higher than anticipated; the Department is in negotiations with vendor. Final contract approval is expected in August from Department of General Services and the Legislature.



DCA has received several requests to increase the salary of executive officers. Ms. Kirchmeyer explained the approval process. An analysis is being conducted of executive officer salaries and an evaluation form is being prepared to be distributed in May 2011.

**7. Agenda Item #7, APPROVAL OF BOARD MEETING MINUTES**

- **January 21, 2011:** Mr. Hedges made the motion to approve the minutes and it was seconded by Ms. Tran. Mr. Lloyd questioned Agenda Item #8, Legislation Priorities and stated that he made the first motion to approve but not the second motion. Mr. Hedges stated he believed he made the second motion to approve and commented to refer to January's tape recording of board meeting. The minutes were approved by a 5-0 vote as amended.

**8. Agenda Item #8, LEGISLATION UPDATE**

- **AB 797 – Cosmetology Schools:** Ms. Underwood commented that the bill has not been heard in committee; not moving at this point.
- **SB 498 – Transfer of Bureau of Private Postsecondary Education (BPPE) to the CA Postsecondary Education Commission:** Two-year bill; not been heard in committee. Ms. Crossett commented that it was contradictory to have to report to both the BPPE and the U.S. Department of Education; requirements are the same. Hardship on schools to pay the extra fees; affects their ability to properly pay their instructors, conduct training, and make improvements to the school.

Public Comment:

Fred Jones of PBFC noted school owners were also concerned about accredited schools. Conversations were being held at high levels within the State legislature about resolving this issue. The schools will have to wait for approval from the BPPE and pay more fees. The goal is to separate schools into 3 categories: cosmetology schools not accredited (Board be the State regulatory body), schools that are accredited by a U.S. department approved agency, and schools accredited by the BPPE. He believed the cosmetology programs taught in trade schools should continue under BPPE with a Memorandum Of Understanding.

**9. Agenda Item #9, REGULATIONS UPDATE**

- **Administrative Fine Schedule:** Ms. Underwood provided update; hearing held with no public comment. Has been filed with the Office of Administrative Law Judge for review; 30 working days to review.
- **Disciplinary Guidelines:** Hearing held with no public comments; package is being finalized.
- **Scoring Methods in Examinations:** Working on package; anticipate a public hearing in June 2011.
- **Unregulated Practices:** Working on package; anticipate a public hearing in June 2011.
- **Curriculum:** In process; anticipate a public hearing in June 2011.

**10. Agenda Item #10, UPDATE ON MANICURING TECHNICAL ADVISORY COMMITTEE**

The Manicuring Technical Advisory Committee was established to provide assistance to Board staff



on the technical aspect of the manicuring industry as well as make recommendations to the Board. The issues and recommendations from their April 4, 2011 meeting were outlined and discussed. They included: **1) Disinfectable Nail Files** (Board has no proof that files are disinfectable; Committee believes it's the manufacture's responsibility to show proof), **2) Contaminated Nail Liquids and Nail Powders** (establishments being fined; study conducted concluded that bacteria cannot grow or live in nail liquids/powders; however, the Board has not received the results of this study), **3) Foot Spa Liners** (liners not addressed in regulations; Committee recommended the use of liners which would require regulatory change. Ms. Crossett expressed concern regarding the disposal of liners and its negative effect on the environment), **4) Prohibitive Substances** (list of prohibitive substances provided to Board; Mr. Hedges made recommendation to update Section 989 of Regulations with further research; Mr. Duke commented that it should be a quick amendment to the regulation), **5) Medical Pedicures** (cannot be performed by manicurist; not within scope of work; must be licensed by Medical Board as per website indicates), **6) Callus Remover Products** (products can be used at establishments if used appropriately; licensees can smooth but not remove calluses; removing callus is a medical procedure) and **7) Detox Foot Spas** (marketed to licensees at trade shows; literature alludes to curing medical conditions; not within scope of licensees. Mr. Lloyd commented that having a policy would be helpful especially for DRC hearings). Bring recommendations to next Board meeting.

**The meeting was adjourned for 15 minute break.**

**11. Agenda Item #11, DISCUSSION ON NEEDLE-TIP TWEEZERS**

Mr. Hedges expressed concern over needle-tip tweezers and how sharp they were. He commented that needles are banned but not tweezers. Ms. Crossett commented on the need to educate licensees about the proper use of needle-tip tweezers versus regulating products. Ms. Underwood stated that tweezers were not illegal if used properly (not for extractions).

Public Comment:

Patsy Kirby, Electrology Association of California, commented that slanted and pointed tweezers are used for electrolysis (not for extractions) and are not a hazard. She provided pictures and samples of the types of tweezers she uses. She does not want the Board to limit her tools. Ms. Crossett asked that the needle tip tweezer information be placed on the website.

Lydia Justice, Electrologist, also uses needle-tip tweezers for single hair removal and agreed they are not a hazard if used properly.

**12. Agenda Item #12, UPDATE AND DISCUSSION ON EXAMS IN STATE CORRECTIONAL FACILITIES**

Ms. Underwood reported that exams are currently taking place at two facilities with approximately 18 applicants; another facility to be added. Exams given as close to the parole date as possible and do not include violent offenders. Out of the 30 exams given, licensed 15 individuals (inmates). Fees not waived for inmates. Mr. Hedges commented that he hoped to expand the program to counties and to have public schools assist also. He believed Skyline supported this opportunity. Mr. Duke noted that the Department of Corrections was provided with specific criteria that inmates

had to meet in order to enter the program; reviewed on a case-by-case basis.

**13. Agenda Item #13, PUBLIC COMMENT**

*Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting.  
[Government Code Sections 11125, 11125 (a)]*

Kirby Giaramita of Skyline College commented that she was participating in Skyline's teaching program to get her teacher's license until the Governor vetoed the bill. She would like to see it observed again. Ms. Crossett commented that she can still be an educator without being a licensed teacher. Mr. Hedges commented that it was the Legislature who had vetoed the bill.

Laurie Biagi of Skyline College commented about the externship program. In addition to the private college program, she would like to see the externship program at community colleges. Fred Jones (PBFC) stated that the community colleges had opposed it twenty years ago.

June Gentile of Solano Community College commented when students complete 1200 hours of schooling, they should be able to take the written portion of exam. Ms. Crossett commented that she liked the idea. Mr. Duke commented to make the change would require Legislature approval.

**14. Agenda Item #14, AGENDA ITEMS FOR NEXT MEETING**

Mr. Lloyd suggested further staff research from the Manicuring committee and firm recommendations. Ms. Crossett suggested a review of Ms. Gentile's suggestion to be able to take the written exam upon completion of 1200 hours of schooling.

**15. Agenda Item #15, CLOSED SESSION TO DISCUSS ENFORCEMENT CASES**

- **Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3)).**

**16. Agenda Item #16, ADJOURNMENT**

With no further business, the meeting was adjourned.



## **CALIFORNIA STATE BOARD OF BARBERING AND COSMETOLOGY**

**MINUTES OF APRIL 26, 2011**

**Department of Consumer Affairs  
1625 North Market Blvd.  
1<sup>st</sup> Floor Hearing Room, S-102  
Sacramento, CA 95834**

### **BOARD MEMBERS PRESENT**

Deedee Crossett  
Christie Tran  
Marie Lemelle  
Frank Lloyd  
Richard Hedges

### **STAFF MEMBERS PRESENT**

Kristy Underwood, Executive Officer  
Hilda Youngblood, Asst. Executive Officer  
Gary Duke, Staff Counsel  
Theresa Rister, Board Analyst  
Linda Sakauye, Board Analyst

### **1. Agenda Item #1, CALL TO ORDER/ROLL CALL**

Ms. Crossett called the meeting to order. The board members and staff members introduced themselves.

### **2. Agenda Item #2, PETITION FOR REINSTATEMENT**

The Administrative Law Judge conducted the proceedings for the petition for reinstatement.

- Tracy Loan Manh
- Phiet Anh Nguyen
- Anthony Alan Vallier

### **3. Agenda Item #3, CLOSED SESSION**

Decision on Reinstatement and Disciplinary Cases (Closed Pursuant to Government Code Section 11126 (C) (3)).

### **Open Session:**

### **4. Agenda Item #4, ADJOURNMENT**

There being no further business the meeting was adjourned.




State and Consumer Services Agency – Governor Edmund G. Brown Jr.  
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## MEMORANDUM

DATE: July 11, 2011

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer   
 Board of Barbering and Cosmetology

SUBJECT: Pending Legislation

---

Listed below are the bills currently being tracked by the Board:

Please Note: in an effort to save paper, only bills that are moving through the legislative process are attached.

Bill Number	Author	Status
AB 300	Assembly Member Ma	Bill Location: Senate June 15, 2011 Re-referred to Committee on Appropriations

### Summary

**Safe Body Art Act.** This bill enacts the Safe Body Art Act. The Act would prohibit a person from performing body art without registering annually with the local enforcement agency. This bill would require practitioners to comply with specific requirements including client information and questionnaires, blood borne pathogen training, etc. This bill would require the owner of a body art facility to obtain and annually renew a health permit from the local enforcement agency. This bill also makes other provisions pertaining to body art. This bill defines body art as body piercing, tattooing, branding, or the application of permanent cosmetics.

### Staff Recommendation

Staff is monitoring this bill because of the use of permanent cosmetics and the popularity of this procedure in licensed establishments. This bill does not impact the Board's current laws and regulations.

---

Bill Number	Author	Status
AB 797	Assembly Member Conway	Bill is not moving.

Summary
This bill removed cosmetology schools from the Private Postsecondary Act.

Staff Recommendation
This bill is not moving through the process.

---

Bill Number	Author	Status
SB 498	Senator Liu	Bill Location: Senate 2-Year Bill

Summary
This bill would abolish the Bureau for Private Postsecondary education and would transfer the Bureau's powers and duties to the California Postsecondary Education Commission.

Staff Recommendation
Staff has been advised that this is a 2-year bill. Staff will monitor any action on this bill.

---

Bill Number	Author	Status
SB 541	Senator Price	Bill Location: Assembly June 21, 2011 Referred to Committee on Business and Professions

Summary
This bill would authorize Board's to enter into an agreement with an expert consultant to provide enforcement and examination assistance. Recently, Boards were required to enter into contracts with expert consultants for assistance, this bill will allow boards to enter into agreements without having to execute a personal service contract.

Staff Recommendation
Staff highly recommends that the Board support this bill. This bill will allow the Board to easily obtain an expert opinion on an enforcement case.



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Bill Number	Author	Status
SB 706	Senator Price	Bill Location: Assembly June 27, 2011 referred to Committee on Business and Professions

Summary
This bill requires the Board to disclose on the Internet information on licensees including accusations.

Staff Recommendation
Staff does not have a recommended position on this bill. The Board already discloses the required and requested information on the internet. There is no impact to the Board.

---

Bill Number	Author	Status
SB 746	Senator Lieu	Bill Location: Assembly June 20, 2011 Referred to Committee on judiciary and Business and Professions

Summary
Tanning Facilities. This bill would prohibit a person under 18 years of age from using an ultraviolet tanning device.

Staff Recommendation
The Board has minimal oversight over tanning devices. The Board can only enforce the use of tanning devices that are within a licensed establishment. Tanning devices are rarely found in licensed establishments. While there is no impact to the Board, a support position should be considered as this bill does increase consumer protection.

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AMENDED IN SENATE JUNE 14, 2011  
AMENDED IN ASSEMBLY MARCH 10, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 300**

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**Introduced by Assembly Member Ma**  
*(Principal coauthor: Senator Alquist)*  
*(Coauthor: Assembly Member Ammiano)*

February 9, 2011

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An act to repeal and add Chapter 7 (commencing with Section 119300) of Part 15 of Division 104 of the Health and Safety Code, relating to body art.

LEGISLATIVE COUNSEL'S DIGEST

AB 300, as amended, Ma. Safe Body Art Act.

Under existing law, every person engaged in the business of tattooing, body piercing, or permanent cosmetics is required to register with the county in which that business is conducted, obtain a copy of the county's sterilization, sanitation, and safety standards, as established by the California Conference of Local Health Officers and distributed by the State Department of Public Health, as specified, and pay a one-time registration fee of \$25. Existing law allows the county to charge an additional fee, if necessary to cover the cost of registration and inspection, and allows a county to adopt regulations that do not conflict with, or are more comprehensive than, standards adopted by the department.

Under existing law, a person who fails to register or who violates the sterilization, sanitation, and safety standards is liable for a civil penalty



of up to \$500, to be collected in an action brought by the prosecuting attorney of the county or city and county in which the violation occurred.

This bill would, as of July 1, 2012, repeal these provisions and, instead, enact the Safe Body Art Act. The act would prohibit a person from performing body art, as defined, without registering annually with the local enforcement agency. The bill would require practitioners to comply with specified requirements, including, among other things, client information and questionnaires, vaccination, bloodborne pathogen training, and sanitation. The bill would also require the owner of a body art facility, as defined, to obtain and annually renew a health permit from the local enforcement agency, as specified, and to maintain the body art facility in a specified manner.

This bill would exempt from the definition of body art the piercing of an ear with a disposable, single-use, presterilized stud or solid needle that is applied using a mechanical device to force the needle or stud through the ear, but would impose specified requirements on that practice. The bill would allow a local enforcement agency to require facilities performing ear piercing in that jurisdiction to submit a notification form, as provided, with the local enforcement agency.

The bill would allow the local enforcement agency to charge a one-time facility notification fee in an amount between \$25 and \$45, but not in excess of the amount required to cover the actual costs of administering and enforcing the program. The bill would allow a county, after December 31, 2015, to charge a different fee, established by local ordinance, so long as an increased fee amount is necessary to cover the actual costs of administering and enforcing the provisions.

This bill would regulate the performance of body art in vehicles, temporary booths, and at body art events and would require a person sponsoring a body art event to obtain a permit and fulfill specified requirements.

The bill would allow inspection by an enforcement officer, and would provide for the suspension or revocation of a certificate of registration or a health permit in specified circumstances. The bill would make performing body art without being registered, operation of a body art facility without a health permit, or operation of a temporary body art event without a permit a misdemeanor and would allow the local enforcement agency to assess an administrative penalty, in an amount not less than \$25 and not more than \$1,000 for violating a provision of the chapter. The bill would also allow the local enforcement agency, in addition to these penalties, to impose a penalty of up to three times

the cost of the registration or permit on a practitioner, owner of a body art facility, or sponsor of a temporary body art event who fails to obtain needed permits.

This bill would allow a city, county, or city and county to adopt regulations or ordinances that do not conflict with, or are more stringent than, the provisions of the act as those provisions relate to body art. Because this bill would place the inspection and enforcement requirements on local governments and because it creates a new crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 7 (commencing with Section 119300)  
2 of Part 15 of Division 104 of the Health and Safety Code is  
3 repealed.

4 SEC. 2. Chapter 7 (commencing with Section 119300) is added  
5 to Part 15 of Division 104 of the Health and Safety Code, to read:

6

7

#### CHAPTER 7. BODY ART

8

9

#### Article 1. General Provisions

10

11 119300. (a) This chapter shall be known, and may be cited,  
12 as the Safe Body Art Act.

13 (b) The purpose of this chapter is to provide minimum statewide  
14 standards for the regulation of persons engaged in the business of  
15 tattooing, body piercing, and the application of permanent  
16 cosmetics in California. These requirements are intended to protect  
17 both the practitioner and the client from transmission of infectious  
18 diseases through the application of proper body art procedures and  
19 the control of cross-contamination of instruments and supplies.

20 119301. For purposes of this chapter, the following definitions  
21 shall apply:



1 (a) "Antiseptic solution" means a liquid or semiliquid substance  
2 that is approved by the federal Food and Drug Administration to  
3 reduce the number of microorganisms present on the skin and on  
4 mucosal surfaces.

5 (b) "Bloodborne pathogen" means a disease-causing  
6 microorganism that, when present in the blood, can be transmitted  
7 to humans, including, but not limited to, hepatitis B virus (HBV),  
8 hepatitis C virus (HCV), and human immunodeficiency virus  
9 (HIV).

10 (c) "Body art" means body piercing, tattooing, branding, or  
11 application of permanent cosmetics.

12 (d) "Body art facility" means the specified building, section of  
13 a building, or vehicle in which a practitioner performs body art,  
14 including reception areas, the procedure area, and the  
15 decontamination and sterilization area. "Body art facility" does  
16 not include a facility that only pierces the ear with a disposable,  
17 single-use, presterilized clasp and stud or solid needle that is  
18 applied using a mechanical device to force the needle or stud  
19 through the ear.

20 (e) "Body piercing" means the creation of an opening in a human  
21 body for the purpose of inserting jewelry or other decoration.  
22 "Body piercing" includes, but is not limited to, the piercing of an  
23 ear, including the tragus, lip, tongue, nose, or eyebrow. "Body  
24 piercing" does not include the piercing of an ear, except for the  
25 tragus, with a disposable, single-use, presterilized stud and clasp  
26 or solid needle that is applied using a mechanical device to force  
27 the needle or stud through the ear.

28 (f) "Branding" means the process in which a mark or marks are  
29 burned into human skin tissue with a hot iron or other instrument,  
30 with the intention of leaving a permanent scar.

31 (g) "Client" means an individual upon whom a practitioner  
32 performs body art.

33 (h) "Decontamination and sterilization area" means a room, or  
34 specific section of a room, that is set apart and used only to  
35 decontaminate and sterilize instruments.

36 (i) "Department" means the State Department of Public Health.

37 (j) "Decontamination" means the use of physical or chemical  
38 means to remove, inactivate, or destroy bloodborne pathogens on  
39 a surface or item to the point where the pathogens are no longer

1 capable of transmitting infectious particles and the surface or item  
2 is rendered safe for handling, use, or disposal.

3 (k) "Disinfectant" means a product that is registered by the  
4 federal Environmental Protection Agency and the Department of  
5 Pesticide Regulation, as indicated on the label, to reduce or  
6 eliminate the presence of disease-causing microorganisms,  
7 including human immunodeficiency virus (HIV) and hepatitis B  
8 virus (HBV) for use in decontaminating work surfaces.

9 (l) "Enforcement officer" means all local health officers,  
10 directors of environmental health, and duly authorized registered  
11 environmental health specialists and environmental health specialist  
12 trainees.

13 (m) "Hand hygiene" means either of the following:

14 (1) Thoroughly washing all surfaces of the hands and under the  
15 fingernails with soap and warm water.

16 (2) In the absence of contamination with blood or other bodily  
17 fluids, or obvious soiling, applying an antiseptic solution to all the  
18 surfaces of the hands and underneath the fingernails.

19 (n) "Instrument" means a nonmedical application device used  
20 in performing body art, including, but not limited to, needles,  
21 needle bars, needle tubes, forceps, hemostats, tweezers, razors, or  
22 razor blades.

23 (o) "Local enforcement agency" means the local health agency  
24 of the county, city, or city and county. In jurisdictions where the  
25 local health agency and the environmental health agency are  
26 separate departments, the jurisdiction shall specify which entity  
27 will be the local enforcement agency for purposes of this chapter.

28 (p) "Mucosal surface" means the moisture-secreting membrane  
29 lining of all body cavities or passages that communicates with the  
30 exterior, including, but not limited to, the nose, mouth, vagina,  
31 and urethra.

32 (q) "Owner" means either of the following:

33 (1) The person or persons whose name or names appear on the  
34 health permit, business license, property deed, or rental agreement  
35 of the body art facility.

36 (2) A person, acting as a principal of a corporation or  
37 partnership, who employs practitioners to perform body art or  
38 other activity regulated by this chapter.

39 (r) "Permanent cosmetics" means the application of pigments  
40 in human skin tissue for the purpose of permanently changing the



1 color or other appearance of the skin. This includes, but is not  
2 limited to, permanent eyeliner, eyebrow, or lip color.

3 (s) "Potable water" means water that complies with the standards  
4 for transient noncommunity water systems pursuant to the  
5 California Safe Drinking Water Act (Chapter 4 (commencing with  
6 Section 116275) of Part 12).

7 (t) "Practitioner" means a person who performs body art on a  
8 client.

9 (u) "Procedure area" means a room, or designated portion of a  
10 room, that is set apart and only used to perform body art.

11 (v) "Procedure site" means the area or location on the human  
12 body selected for the placement of body art.

13 (w) "Sharps waste" has the same meaning as that term is defined  
14 in Section 117755.

15 (x) "Sterilization" means the complete destruction of all  
16 microbial life forms, including spores.

17 (y) "Tattooing" means the insertion of pigment in human skin  
18 tissue by piercing with a needle.

19 (z) "Vehicle" means a vehicle that has been fitted or designed  
20 to perform body art.

21 (aa) "Workstation" means the area within a procedure area  
22 where a practitioner performs body art. The workstation includes,  
23 but is not limited to, the client chair or table, counter, mayo stand,  
24 instrument tray, storage drawer, and practitioner's chair.

## 25 Article 2. Restrictions on the Performance of Body Art

26  
27  
28 119302. (a) Pursuant to Section 653 of the Penal Code, a client  
29 shall be at least 18 years of age to be offered or to receive a tattoo  
30 or permanent cosmetics application, regardless of parental consent.

31 (b) Pursuant to Section 652 of the Penal Code, persons under  
32 18 years of age shall not be offered or receive a body piercing  
33 unless the piercing is performed in the presence of his or her parent  
34 or guardian.

35 (c) A client shall be at least 18 years of age to be offered or to  
36 receive a branding, regardless of parental consent.

37 (d) The piercing or application of permanent cosmetics to the  
38 nipples or genitals of a minor is prohibited. The application of  
39 permanent cosmetics to the nipples of a minor is authorized when  
40 applied by a registered permanent cosmetic technician with the

1 consent of the minor's parent or guardian and as directed by a  
2 physician.

3 (e) A body art facility may refuse to perform body piercing on  
4 a minor, regardless of parental or guardian consent.

5 119303. (a) Prior to the performance of body art, the client  
6 shall read, complete, and sign an informed consent form that shall  
7 include, but not be limited to, all of the following information:

8 (1) A description of the procedure.

9 (2) A description of what the client should expect following the  
10 procedure, including suggested care and any medical complications  
11 that may occur as a result of the procedure.

12 (3) A statement regarding the permanent nature of body art.

13 (4) Postprocedure instructions that include all of the following:

14 (A) Information on the care of the procedure site.

15 (B) Restrictions on physical activities such as bathing,  
16 recreational water activities, gardening, or contact with animals,  
17 and the duration of the restrictions.

18 (C) Signs and symptoms of infection, including, but not limited  
19 to, redness, swelling, tenderness of the procedure site, red streaks  
20 going from the procedure site towards the heart, elevated body  
21 temperature, or purulent drainage from the procedure site.

22 (D) Signs and symptoms that indicate the need to seek medical  
23 care.

24 (b) Prior to the performance of body art, the client shall receive,  
25 complete, and sign a questionnaire that includes all of the following  
26 information:

27 (1) Whether the client may be pregnant.

28 (2) Whether the client has a history of herpes infection at the  
29 proposed procedure site, diabetes, allergic reactions to latex or  
30 antibiotics, hemophilia or other bleeding disorder, or cardiac valve  
31 disease.

32 (3) Whether the client has a history of medication use or is  
33 currently using medication, including being prescribed antibiotics  
34 prior to dental or surgical procedures.

35 (4) Other risk factors for bloodborne pathogen exposure.

36 (c) The questionnaire and all responses shall be considered  
37 confidential information. The body art facility shall maintain the  
38 privacy of the information and shall not sell, share, or transfer the  
39 information. A body art facility shall comply with all state and  
40 federal laws with respect to the protection of a client's personally



1 identifiable information, including, but not limited to, medical  
2 information, and shall be subject to existing penalties for violation  
3 of applicable laws. The body art facility shall shred any confidential  
4 medical information after two years from performing the body art  
5 procedure on the client.

6 119304. This chapter does not restrict the activities of a  
7 physician and surgeon licensed under Chapter 5 (commencing  
8 with Section 2000) of Division 2 of the Business and Professions  
9 Code. Nothing in this chapter authorizes a practitioner to perform  
10 activities that are restricted under Chapter 5 (commencing with  
11 Section 2000) of Division 2 of the Business and Professions Code.

### 12 13 Article 3. Practitioner Registration

14  
15 119306. (a) A person shall not perform body art if he or she  
16 is not registered with the local enforcement agency.

17 (b) As a condition of registration, the applicant shall provide  
18 all of the following:

19 (1) Evidence of current hepatitis B vaccination, including  
20 applicable boosters, unless the practitioner can demonstrate  
21 hepatitis B immunity or has complied with current federal OSHA  
22 hepatitis B vaccination declination requirements.

23 (2) Evidence of completion of OSHA Bloodborne Pathogen  
24 Training consistent with Section 119307 and pursuant to paragraph  
25 (2) of subdivision (g) of Section 5193 of Title 8 of the California  
26 Code of Regulations or its successor.

27 (3) Proof that he or she is 18 years of age or older.

28 (4) Self-certification of, knowledge of, and commitment to meet  
29 state law and relevant local regulations pertaining to body art  
30 safety.

31 (5) *For first-time registrants, documentation evidencing a*  
32 *minimum of six months' related experience. The local enforcement*  
33 *agency may require documentation that includes, but is not limited*  
34 *to, dates, type, and location of work, and the name and contact*  
35 *information of the registrant's supervisor or supervisors.*

36 ~~(5)~~

37 (6) His or her business address and the address at which he or  
38 she will perform any activity regulated by this chapter.

39 ~~(6)~~

1 (7) Payment of a registration fee directly to the local  
2 enforcement agency. The local enforcement agency shall set the  
3 fee at an amount not to exceed the amount necessary but that is  
4 sufficient to cover the actual costs of administering the program.

5 (c) A practitioner shall display, in a place readily visible to the  
6 public at the body art facility where the practitioner is performing  
7 body art, the certificate confirming registration with the local  
8 enforcement agency in the jurisdiction in which that practice is  
9 conducted.

10 (d) A valid and current registration issued by a local enforcement  
11 agency shall be valid in any other jurisdiction for no more than  
12 five consecutive days, or 15 days total, in any one calendar year.

13 (e) Practitioner registration shall be renewed annually by a  
14 process to be determined by the local enforcement agency.

15 (f) A practitioner shall obtain all necessary permits to conduct  
16 business, including, but not limited to, being registered with the  
17 local enforcement agency. In addition to the penalties available  
18 pursuant to Article 6 (commencing with Section 119320), a  
19 practitioner who violates this subdivision shall be subject to  
20 suspension and a penalty not to exceed three times the cost of  
21 registration.

22 119307. (a) Prior to registering with the local enforcement  
23 agency, a practitioner shall complete a Bloodborne Pathogens  
24 Exposure Control Training program that is specific to his or her  
25 practice.

26 (b) An owner shall provide Bloodborne Pathogens Exposure  
27 Control Training pursuant to the requirements of paragraph (2) of  
28 subdivision (g) of Section 5193 of Title 8 of the California Code  
29 of Regulations, or its successor, for all employees, contractors,  
30 and volunteers who perform duties within the decontamination  
31 and sterilization area or procedure area.

32 (c) The Bloodborne Pathogens Exposure Control Training shall  
33 meet all of the following criteria:

34 (1) Training shall be conducted by a person or persons who are  
35 knowledgeable in exposure control and infection prevention in the  
36 body art setting and who are approved by the local enforcement  
37 agency in accordance with the provisions of this section.

38 (2) Training and training materials shall be specific to  
39 performing body art.



1 (3) Training shall consist of not less than two hours of  
2 instruction that includes all of the following:

3 (A) A copy and explanation of the California Occupational  
4 Safety and Health Administration Bloodborne Pathogens Standard  
5 contained in Section 5193 of Title 8 of the California Code of  
6 Regulations, or its successor.

7 (B) A copy and explanation of applicable county, city, or city  
8 and county ordinances that pertain to bloodborne pathogen  
9 transmission control in body art.

10 (C) Discussion of transmission, control, and symptoms of the  
11 diseases caused by bloodborne pathogens.

12 (D) Discussion of tasks involved in performing body art and  
13 how those tasks may lead to exposure to bloodborne pathogens  
14 for the client or practitioner.

15 (E) Discussion of the types and uses of personal protective  
16 equipment, such as disposable gloves, including an explanation  
17 of the limitations of the equipment.

18 (F) Discussion of the types of tasks, proper task technique, and  
19 order of tasks before and after putting on and removing personal  
20 protective equipment, to avoid contamination.

21 (G) Discussion of the importance of hand hygiene and a  
22 demonstration of proper hand hygiene techniques.

23 (H) Discussion of choice, use, and storage of disinfectants and  
24 antiseptics.

25 (I) Information on the signage required for biohazard materials  
26 and the importance of properly labeling chemicals and supplies.

27 (J) Information on hepatitis B vaccine, including safety and  
28 accessibility.

29 (K) Discussion of what constitutes a bloodborne pathogen  
30 exposure incident, including all of the following:

31 (i) Examples of bloodborne pathogen exposure, how the  
32 exposure occurred, and what actions to take to prevent or minimize  
33 future exposures.

34 (ii) Risk of infection following a bloodborne pathogen exposure  
35 incident.

36 (iii) Procedures to be followed after an exposure incident,  
37 including medical followup.

38 (L) Opportunities for interactive questions and answers with  
39 the instructor.

1 (d) Each person required to complete a Bloodborne Pathogens  
2 Exposure Control Training program pursuant to this section shall  
3 annually complete a minimum of two hours of Bloodborne  
4 Pathogens Exposure Control Training update presented by a trainer  
5 eligible pursuant to paragraph (1) of subdivision (c).

6 (e) Records of training required pursuant to this section shall  
7 be maintained for three years and shall be available for inspection  
8 upon request of the enforcement officer.

9 119308. (a) Before performing body art, the practitioner shall  
10 do all of the following:

11 (1) Wash and dry his or her hands consistent with sound hygienic  
12 practices.

13 (2) Put on a clean apron, bib, or lap pad over clean, dry clothing.

14 (3) Put on personal protective equipment that is appropriate for  
15 the task.

16 (4) Don clean, previously unused, disposable examination gloves  
17 on both hands just prior to the procedure. Gloves shall be worn  
18 throughout the procedure. If gloves come into contact with an  
19 object or surface other than the client's prepared skin or material  
20 to be used for the procedure, or if a glove is torn or punctured,  
21 both gloves shall be removed, hand hygiene performed, and new,  
22 clean, previously unused, disposable examination gloves shall be  
23 donned. If gloves are removed for any reason during a procedure,  
24 hand hygiene shall be performed prior to donning new, clean,  
25 previously unused, disposable examination gloves.

26 (5) If the skin at the procedure site is to be shaved, the skin shall  
27 be first washed with soap and water. A single-use, disposable razor  
28 shall be used to shave the procedure site and then discarded into  
29 a sharps container.

30 (6) Immediately prior to performing the body art, the client's  
31 skin shall be prepared with an antiseptic solution, antimicrobial,  
32 or microbicide, according to manufacturer's instructions. The item  
33 used for application shall be discarded after use.

34 (b) At the completion of the procedure, the practitioner shall do  
35 all of the following:

36 (1) Answer questions regarding the procedure site.

37 (2) Provide postprocedure instructions.

38 (3) Place all used or discarded sharps waste in a sharps waste  
39 container.



1 (4) Wash and disinfect reusable instruments as provided in  
2 subdivisions (d) and (e) of Section 119309.

3 (5) Package and sterilize reusable instruments that may have  
4 come in contact with nonintact skin or mucosal surfaces.

5 (6) Decontaminate the workstation and procedure area.

6 119309. (a) The practitioner shall maintain a clean and sanitary  
7 environment.

8 (b) All solid surfaces and objects in the procedure area and the  
9 decontamination and sterilization area that have come into contact  
10 with the client or the materials used in performing the body art,  
11 including, but not limited to, chairs, armrests, tables, countertops,  
12 and trays, shall be immediately decontaminated after each use and  
13 then disinfected by application of a disinfectant, used according  
14 to manufacturer's directions.

15 (c) The surfaces and objects in the procedure area shall be  
16 disinfected again before use if the area has been used for any  
17 activity following its previous disinfection.

18 (d) The practitioner shall wear disposable gloves on both hands  
19 when touching, decontaminating, or handling a surface, object,  
20 instrument, or jewelry that is soiled or that is potentially soiled  
21 with human blood.

22 (e) An instrument or other reusable item that comes into contact  
23 with nonintact skin or mucosal surfaces shall either be single use  
24 or be washed, disinfected, packaged, and sterilized after each  
25 procedure. Sterilization shall be accomplished pursuant to the  
26 procedures established in Section 119315 by steam autoclave.

27 (f) An instrument or reusable item that does not come into  
28 contact with nonintact skin or mucosal surfaces shall be washed  
29 with a solution of soap and water, using a brush that is small  
30 enough to clean the interior surfaces, and decontaminated after  
31 each procedure.

32 (g) A reusable item that cannot be immediately washed,  
33 disinfected, and sterilized following completion of the body art  
34 procedure shall be placed in a basin of water with or without  
35 detergent.

36 (h) Sterile instrument packs shall be evaluated before use, and  
37 if the integrity of a pack is compromised in any way, including,  
38 but not limited to, being torn, punctured, wet, or having evidence  
39 of potential moisture contamination, the instrument pack shall be  
40 discarded or reprocessed before use.

1 (i) No food, drink, tobacco product, or personal effects are  
2 permitted in the procedure area. The practitioner shall not eat,  
3 drink, or smoke while performing a procedure. If a client requests  
4 to eat, drink, or smoke, the procedure shall be stopped and the  
5 procedure site shall be protected from possible contamination while  
6 the client leaves the procedure area to eat, drink, or smoke.

7 (j) Branding shall not be done with another client in the  
8 procedure area. During the procedure, the practitioner and the  
9 client shall wear appropriate protective face filter masks.

10 119310. (a) Jewelry placed in newly pierced skin shall be  
11 sterilized prior to piercing as specified in Section 119315 or shall  
12 be purchased presterilized. Sterile jewelry packs shall be evaluated  
13 before use and, if the integrity of a pack is compromised, including,  
14 but not limited to, being torn, wet, or punctured, the pack shall be  
15 discarded or reprocessed before use.

16 (b) Only jewelry made of ASTM F138, ISO 5832-1, and AISI  
17 316L or AISI 316LVM implant grade stainless steel, solid 14-karat  
18 through 18-karat yellow or white gold, niobium, ASTM F 136  
19 6A4V titanium, platinum, or other materials found to be equally  
20 biocompatible shall be placed in newly pierced skin.

21 (c) Ear piercing equipment with a disposable, single-use,  
22 presterilized stud and clasp may be used only for piercing the ear  
23 pursuant to Section 119304.

24 (d) If measuring the body piercing site is necessary, clean  
25 calipers shall be used and the skin marked using clean toothpicks  
26 and ink.

27 119311. (a) A product applied to the skin prior to tattooing or  
28 application of permanent cosmetics, including, but not limited to,  
29 stencils and marking and transfer agents, including pens, shall be  
30 single use and discarded into a waste container at the end of the  
31 procedure unless the product can be disinfected for reuse.

32 (b) Only commercially manufactured inks, dyes, and pigments  
33 shall be used.

34 (c) Inks, pigments, soaps, and other products in multiple-use  
35 containers shall be dispensed in a manner to prevent contamination  
36 of the storage container and its remaining contents through the use  
37 of a single-use receptacle.

38 (d) Inks and pigments shall be placed into a clean, single-use  
39 receptacle. The inks and pigments remaining in the receptacle shall  
40 be discarded immediately upon completion of the procedure.



1 (e) If a tray is used for inks or pigments, it shall be  
2 decontaminated after each procedure.

3 (f) Only single-use needles and needle bars shall be used in  
4 tattooing and the application of permanent cosmetics. Needles and  
5 needle bars that are purchased in a nonsterilized state, shall be  
6 sterilized, pursuant to the process required by Section 119315.

7 (g) Needles, needle bars, grommets, and razors shall be  
8 discarded into a sharps waste container immediately upon  
9 completion of the procedure.

10 (h) Any part of a tattooing machine that may be touched by the  
11 practitioner during the procedure shall be covered with a disposable  
12 plastic sheath that is discarded upon completion of the procedure,  
13 and the machine shall be decontaminated upon completion of the  
14 procedure.

15 (i) A machine used to insert pigments shall be designed with  
16 removable tip parts between the tip and motor housing, and in a  
17 manner that will prevent backflow into enclosed parts of the motor  
18 housing.

19 (j) A hand tool used to insert pigment shall be disposed of in a  
20 sharps container, with the sharps intact, unless the needle can be  
21 mechanically ejected from the hand tool.

#### 22 Article 4. Permanent Body Art Facilities

23  
24 119312. (a) A body art facility shall not conduct business  
25 without a valid health permit.

26 (b) The application for a health permit for a body art facility  
27 shall include all of the following:

28 (1) A copy of the facility's infection prevention control plan,  
29 as required by Section 119313.

30 (2) A fee, as set by the local enforcement agency at an amount  
31 not to exceed the amount necessary but that is sufficient to cover  
32 the actual costs of administration of the program. Fees established  
33 by this section shall be used exclusively in support of activities  
34 pursuant to this chapter.

35 (c) The local enforcement agency shall issue a health permit  
36 after an investigation has determined that the proposed body art  
37 facility and its method of operation meets the specifications of the  
38 approved plans or conforms to the requirements of this article.  
39

1 (d) A health permit is valid only for the location of the facility  
2 and the time period indicated on the permit and may not be  
3 transferred to another owner or facility.

4 (e) The health permit shall be posted in a conspicuous place at  
5 the body art facility. Certificates of registration for all practitioners  
6 performing body art in that facility shall also be prominently  
7 displayed either near the health permit or at the individual  
8 practitioner's procedure area if each practitioner has a designated  
9 area.

10 (f) A person proposing to construct a practice site or mobile  
11 practice site, other than a temporary body art event booth, shall  
12 submit plans to the Plan Review Unit of the local enforcement  
13 agency. The plans shall be approved in advance of the issuance of  
14 a building, plumbing, or electrical permit. All required corrections  
15 must be made and the body art facility approved to open before  
16 body art can be performed in the facility.

17 (g) Health permits shall be renewed annually through a process  
18 to be determined by the local enforcement agency.

19 (h) An owner who operates a body art facility shall obtain all  
20 necessary permits to conduct business, including, but not limited  
21 to, a permit issued by a local enforcement agency. In addition to  
22 the penalties available pursuant to Article 6 (commencing with  
23 Section 119320), an owner who violates this subdivision shall be  
24 subject to the closure of the facility and a penalty not to exceed  
25 three times the cost of the permit.

26 119313. (a) A body art facility shall maintain and follow a  
27 written Infection Prevention and Control Plan, provided by the  
28 owner or established by the practitioners, specifying the procedures  
29 to achieve compliance with each applicable requirement of this  
30 chapter.

31 (b) The Infection Prevention and Control Plan shall include all  
32 of the following:

33 (1) Procedures for decontaminating and disinfecting  
34 environmental surfaces.

35 (2) Procedures for decontaminating, packaging, sterilizing, and  
36 storing reusable instruments.

37 (3) Procedures for protecting clean instruments and sterile  
38 instrument packs from exposure to dust and moisture during  
39 storage.



1 (4) A set up and tear down procedure for any form of body art  
2 performed at the body art facility.

3 (5) Techniques to prevent the contamination of instruments or  
4 the procedure site during the performance of body art.

5 (6) Procedures for safe handling and disposal of sharps waste.

6 (c) The Infection Prevention and Control Plan shall be revised  
7 when changes are made in infection prevention practices,  
8 procedures, or tasks.

9 (d) Onsite training on the facility's Infection Prevention and  
10 Control Plan shall take place when tasks where occupational  
11 exposure may occur are initially assigned, any time there are  
12 changes in the procedures or tasks, and when new technology is  
13 adopted for use in the facility, but not less than once each year.

14 (e) Records of training required pursuant to this section shall  
15 be maintained for three years and shall be available for inspection  
16 upon request of the enforcement officer.

17 119314. (a) With the exception of a temporary demonstration  
18 booth and a mobile site, as specified in Sections 119317 and  
19 119318, a body art facility shall comply with all of the following:

20 (1) Have floors, walls, and ceilings that are smooth, free of open  
21 holes, and washable.

22 (2) Be free of insect and rodent infestation.

23 (3) Be separate from any residential areas used for sleeping,  
24 bathing, or meal preparation. A body art facility associated with  
25 a residential dwelling shall have a separate entrance and toilet  
26 facility, and shall not have a door allowing direct access between  
27 the body art facility and the residential dwelling.

28 (b) Procedure areas in a body art facility shall meet all of the  
29 following standards:

30 (1) Be equipped with a light source that provides adequate light  
31 at the procedure area.

32 (2) Be separated, by a wall or ceiling-to-floor partition, from  
33 nail and hair activities.

34 (3) Be equipped with a sink supplied with hot and cold running  
35 water, containerized liquid soap, and single-use paper towels that  
36 are dispensed from a wall-mounted, touchless dispenser that is  
37 accessible to the practitioner.

38 (c) Decontamination and sanitation areas within a body art  
39 facility shall meet all of the following requirements:

1 (1) Be separated from procedure areas by a space of at least five  
2 feet or by a cleanable barrier.

3 (2) Be equipped with a sink, hot and cold running water, liquid  
4 soap in a wall-mounted dispenser, and single-use paper towels  
5 dispensed from a wall-mounted, touchless dispenser that is readily  
6 accessible to the practitioner.

7 (d) Each procedure area and decontamination and sterilization  
8 area shall have lined waste containers.

9 (e) Each procedure area and decontamination and sterilization  
10 area shall have a container for the disposal of sharps waste that  
11 meets the following requirements:

12 (1) The sharps waste container shall be portable, if portability  
13 is necessary to ensure that the sharps waste container is within  
14 arm's reach of the practitioner.

15 (2) The sharps waste container shall be labeled with the words  
16 "sharps waste" or with the international biohazard symbol and the  
17 word "BIOHAZARD."

18 (3) All sharps waste produced during the process of tattooing,  
19 body piercing, or the application of permanent cosmetics shall be  
20 disposed by either of the following methods:

21 (A) Removal and disposal by a company, or removal and  
22 transportation through a mail-back system approved by the  
23 department pursuant to subdivision (b) of Section 118245.

24 (B) As solid waste, after being disinfected by a method approved  
25 by the department pursuant to paragraph (3) of subdivision (a) of  
26 Section 118215.

27 (f) No animals shall be allowed in the procedure area or the  
28 decontamination and sterilization area.

29 119315. A body art facility shall conform to the following  
30 sterilization procedures:

31 (a) Clean instruments to be sterilized shall first be sealed in  
32 peel-packs that contain either a sterilizer indicator or internal  
33 temperature indicator. The outside of the pack shall be labeled  
34 with the name of the instrument, the date sterilized, and the initials  
35 of the person operating the sterilizing equipment.

36 (b) Sterilizers shall be loaded, operated, decontaminated, and  
37 maintained according to manufacturer's directions, and shall meet  
38 all of the following standards:

39 (1) Only equipment manufactured for the sterilization of medical  
40 instruments shall be used.



1 (2) Sterilization equipment shall be tested using a commercial  
2 biological indicator monitoring system after the initial installation,  
3 after any major repair, and at least once per month. The expiration  
4 date of the monitor shall be checked prior to each use.

5 (3) Each sterilization load shall be monitored with mechanical  
6 indicators for time, temperature, pressure, and, at a minimum,  
7 Class V integrators. Each individual sterilization pack shall have  
8 an indicator.

9 (4) Biological indicator monitoring test results shall be recorded  
10 in a log that shall be kept on site for two years after the date of the  
11 results.

12 (5) A written log of each sterilization cycle shall be retained on  
13 site for two years and shall include all of the following information:

14 (A) The date of the load.

15 (B) A list of the contents of the load.

16 (C) The exposure time and temperature.

17 (D) The results of the Class V integrator.

18 (E) For cycles where the results of the biological indicator  
19 monitoring test are positive, how the items were cleaned, and proof  
20 of a negative test before reuse.

21 (c) Clean instruments and sterilized instrument packs shall be  
22 placed in clean, dry, labeled containers, or stored in a labeled  
23 cabinet that is protected from dust and moisture.

24 (d) Sterilized instruments shall be stored in the intact peel-packs  
25 or in the sterilization equipment cartridge until time of use.

26 (e) Sterile instrument packs shall be evaluated at the time of  
27 storage and before use. If the integrity of a pack is compromised,  
28 including, but not limited to, cases where the pack is torn,  
29 punctured, wet, or displaying any evidence of moisture  
30 contamination, the pack shall be discarded or reprocessed before  
31 use.

32 (f) A body art facility that does not afford access to a  
33 decontamination and sterilization area that meets the standards of  
34 subdivision (c) of Section 119314 or that does not have sterilization  
35 equipment shall use only purchased disposable, single-use,  
36 presterilized instruments. In place of the requirements for  
37 maintaining sterilization records, the following records shall be  
38 kept and maintained for a minimum of 90 days following the use  
39 of the instruments at the site of practice for the purpose of verifying  
40 the use of disposable, single-use, presterilized instruments:

- 1 (1) A record of purchase and use of all single-use instruments.  
2 (2) A log of all procedures, including the names of the  
3 practitioner and client and the date of the procedure.

4 119316. (a) If a practitioner performs body art in a vehicle, a  
5 health permit is required if the practitioner will practice in the  
6 vehicle in the jurisdiction for more than seven days in a 90-day  
7 period. To obtain a health permit, the vehicle shall meet the  
8 requirements set forth in subdivisions (b) to (g), inclusive, of  
9 Section 119317.

10 (b) If the vehicle will be operating in the jurisdiction for less  
11 than seven days in a consecutive 90-day period, the vehicle shall  
12 be treated as a temporary booth and will be subject to Section  
13 119317.

14  
15 Article 5. Temporary Body Art Facilities  
16

17 119317. A practitioner may, in the local jurisdiction of  
18 registration, practice in a temporary demonstration booth for no  
19 more than seven days in a 90-day period. The demonstration booth  
20 shall meet all of the following requirements:

21 (a) Be located within a building that has hand washing facilities  
22 with hot and cold running water, soap, and single-use paper towels  
23 to which practitioners have direct access.

24 (b) Constructed with a partition of at least three feet in height  
25 separating the procedure area from the public.

26 (c) Be free of insect or rodent infestation.

27 (d) Used exclusively for performing body art.

28 (e) Equipped with adequate light available at the level where  
29 the practitioner is performing body art.

30 (f) Equipped with hand washing equipment that, at a minimum,  
31 consists of containerized liquid soap, single-use paper towels, a  
32 five-gallon or larger container of potable water accessible via  
33 spigot, and a wastewater collection and holding tank of  
34 corresponding size. Potable water shall be refilled and the holding  
35 tank evacuated at least every four procedures or every four hours,  
36 whichever occurs first.

37 (g) Not allow animals within the confines of the demonstration  
38 booth.

39 (h) A sponsor of a temporary body art event shall obtain all  
40 necessary permits to conduct business, including, but not limited



1 to, a permit issued by a local enforcement agency. In addition to  
2 the penalties available pursuant to Article 6 (commencing with  
3 Section 119320), a sponsor who violates this subdivision shall be  
4 subject to closure of the temporary body art event and a penalty  
5 not to exceed three times the cost of the permit.

6 119318. (a) The sponsor of a temporary body art event shall  
7 apply for and obtain a sponsor's permit from the local enforcement  
8 agency in the jurisdiction where the event will be held.

9 (b) The sponsor of a temporary body art event shall be  
10 responsible for ensuring the availability of support facilities and  
11 supplies for practitioners and vendors, including, but not limited  
12 to:

13 (1) Access to a potable water supply.

14 (2) Restrooms that have flush toilets supplied with toilet paper,  
15 and hand wash sinks supplied with hot and cold potable running  
16 water, soap, and single-use paper towels to which practitioners  
17 have direct access.

18 (3) Sharps waste containers for each demonstration booth.

19 (4) The use of a licensed medical waste disposal company for  
20 removal of all sharps waste containers used during the body art  
21 event.

22 (5) Frequent trash pickup from demonstration booths.

23 (6) An eye wash station.

24 (7) A decontamination and sterilization area that is separated  
25 from a procedure area by at least five feet or by a cleanable barrier.

26 (8) Adequate backup supplies that have been stored in  
27 compliance with subdivision (d) of Section 119315 and that can  
28 be purchased by practitioners, including, but not limited to:

29 (A) Presterilized tattoo needles.

30 (B) Presterilized needle tubes.

31 (C) Presterilized piercing instruments, including, but not limited  
32 to, needles, receiving tubes, corks, marking tools, and forceps.

33 (D) Plastic bags, barrier film, clip cord covers, and plastic wrap.

34 (E) Ink cups.

35 (F) Nitrile and latex gloves.

36 (G) Single-use tubes of water-based and petroleum-based  
37 lubricants.

38 (H) Absorbent dressing materials.

1 (c) The name, telephone number, and directions to an emergency  
2 room near the temporary body art event shall be posted in a  
3 conspicuous location.

4 (d) Each practitioner working in a booth at a temporary body  
5 art event shall display his or her certificate of registration, or keep  
6 the certificate in a folder that is available for inspection upon  
7 request of the enforcement officer or a client.

8  
9 Article 6. Enforcement

10  
11 119319. (a) An enforcement officer may enter a body art  
12 facility during the facility's hours of operation and other reasonable  
13 times to do any of the following:

14 (1) Conduct inspections, issue citations, and secure samples,  
15 photographs, or other evidence from a body art facility, or any  
16 facility suspected of being a body art facility.

17 (2) Check the Infection Prevention and Control Plan, required  
18 pursuant to Section 119313, to determine if persons working in  
19 the facility are following the plan, and to determine if the plan is  
20 in compliance with this chapter.

21 (3) Secure as evidence documents, or copies of documents,  
22 including the Infection Prevention and Control Plan, or any record,  
23 file, paper, process, invoice, or receipt for the purpose of  
24 determining compliance with this chapter.

25 (b) A written report shall be made and a copy shall be supplied  
26 or mailed to the owner or practitioner at the completion of an  
27 inspection or investigation.

28 (c) Based upon inspection findings or other evidence, an  
29 enforcement officer may impound instruments that are found to  
30 be unsafe to use. Within 30 days, the local enforcement agency  
31 that has impounded the equipment shall commence proceedings  
32 to release the instrument or to seek administrative or legal remedy  
33 for its disposal.

34 (d) It is a violation of this chapter for the owner or a person  
35 working in a body art facility to do any of the following:

36 (1) Conceal records or evidence, or to withhold evidence.

37 (2) Interfere with the performance of the duties of an  
38 enforcement officer.



1 (3) Make a false statement, representation, certification, record,  
2 report, or otherwise falsify information required to be submitted  
3 or maintained pursuant to this chapter.

4 119320. (a) A certificate of registration or a health permit may  
5 be suspended by a local enforcement agency for a violation of this  
6 chapter.

7 (b) A body art facility or practitioner whose certificate of  
8 registration or health permit has been suspended shall cease doing  
9 business until the certificate or permit has been reinstated.  
10 Suspension of the registration of one practitioner in a body art  
11 facility does not affect the status of other practitioners in the facility  
12 unless the violation or violations are for conditions or equipment  
13 that affects the ability of all the practitioners in the facility to  
14 comply with the provisions of this chapter.

15 (c) A body art facility for which the health permit has been  
16 revoked shall close and remain closed until a new health permit  
17 has been issued.

18 (d) Whenever an enforcement officer finds that a practitioner  
19 or body art facility is not in compliance with the requirements of  
20 this chapter, the enforcement officer shall issue a notice to comply  
21 or a notice of violation to the registrant or permitholder setting  
22 forth the acts or omissions with which the registrant or permitholder  
23 is charged, and informing him or her of a right to a hearing, if  
24 requested, to show cause why the registration or permit should not  
25 be suspended or revoked.

26 (e) (1) A written request for a hearing shall be made by the  
27 registrant or permitholder within 15 calendar days after receipt of  
28 the notice.

29 (2) The hearing shall be held within 15 calendar days of the  
30 receipt of a request for a hearing. Upon written request of the  
31 registrant or permitholder, the hearing officer may postpone a  
32 hearing date, if circumstances warrant the action.

33 (f) A failure to request a hearing within 15 calendar days after  
34 receipt of the notice shall be deemed a waiver of the right to a  
35 hearing.

36 (g) The hearing officer shall issue a written notice of decision  
37 to the registrant or permitholder within five working days following  
38 the hearing. In the event of a suspension or revocation, the notice  
39 shall specify the acts or omissions with which the registrant or

1 permitholder is charged, and shall state the terms of the suspension  
2 or that the registration or health permit has been revoked.

3 (h) A certificate of registration or health permit may be  
4 reinstated or a new certificate of registration or health permit issued  
5 if the local enforcement agency determines that the conditions that  
6 prompted the suspension or revocation no longer exist.

7 119321. If an imminent health hazard is found, the enforcement  
8 officer may suspend a registration temporarily and order the  
9 practitioner to cease operation if the hazard is not corrected. If the  
10 hazard affects the entire body art facility, then the entire facility  
11 may be closed immediately. Whenever a registration or health  
12 permit is suspended as the result of an imminent health hazard,  
13 the enforcement officer shall issue to the registrant or permitholder  
14 a notice setting forth the acts or omissions being charged,  
15 specifying the pertinent code section, and informing the registrant  
16 or permitholder of the right to a hearing.

17 119322. The local enforcement agency may, after providing  
18 opportunity for a hearing, modify, suspend, or revoke a certificate  
19 of registration or a health permit for serious or repeated violations  
20 of any requirement of this chapter or for interference in the  
21 performance of the duty of the enforcement officer.

22 119323. Performing body art without being registered,  
23 operating a body art facility without a health permit, or operating  
24 a temporary body art event without a permit shall be a  
25 misdemeanor. The local enforcement agency may also assess an  
26 administrative penalty in an amount not less than twenty-five  
27 dollars (\$25) and not more than one thousand dollars (\$1,000) for  
28 violation of a provision of this chapter. All fines are to be retained  
29 by the local enforcement agency for enforcement of the provisions  
30 of this chapter.

31 119324. A city, county, or city and county may adopt  
32 regulations or ordinances that do not conflict with, or are more  
33 stringent than, the provisions of this chapter as they relate to body  
34 art.

35  
36 Article 7. Mechanical Stud and Clasp Ear Piercing  
37

38 119325. (a) The piercing of the ear with a mechanical stud  
39 and clasp device does not constitute body art as defined in this  
40 chapter. It is the intent of the Legislature, in enacting this article,



1 to provide uniform and statewide requirements for the performance  
2 of ear piercing with a mechanical stud and clasp device. The  
3 piercing of an ear with a mechanical stud and clasp device shall  
4 only be subject to the requirements in this article.

5 (b) The area within a facility where mechanical stud and clasp  
6 ear piercing is conducted shall be safe and sanitary and shall not  
7 constitute a threat to the public health and safety, as reasonably  
8 determined by the local enforcement agency.

9 (c) The mechanical stud and clasp device that is used to pierce  
10 an ear pursuant to this article shall be single-use, presterilized, stud  
11 and clasp only.

12 (d) The single-use mechanical stud and clasp device used to  
13 pierce an ear pursuant to this article shall meet all of the jewelry  
14 requirements in subdivisions (a) and (b) of Section 119310.

15 119326. (a) The local enforcement agency may require a  
16 facility that provides mechanical stud and clasp ear piercing  
17 services to submit a notification form, which shall be provided by  
18 the local enforcement agency in the jurisdiction in which the  
19 facility is located. If the local enforcement agency requires this  
20 notification form, the form shall include all of the following  
21 information:

22 (1) The address of all facilities within the jurisdiction where  
23 mechanical stud and clasp ear piercing will be performed.

24 (2) A statement that the mechanical stud and clasp ear piercing  
25 will be conducted in compliance with the requirements of this  
26 article.

27 (3) The contact information for the person responsible for  
28 compliance with this article and who the local enforcement agency  
29 should contact regarding complaints from the public regarding  
30 mechanical stud and clasp ear piercing at a facility listed in  
31 paragraph (1).

32 (b) Information for more than one location within a single  
33 jurisdiction with the same owner or operator may be included on  
34 a single notification form. If the local enforcement agency requires  
35 notification, it shall provide a notification form that allows the  
36 owner or operator of more than one facility in the jurisdiction to  
37 provide the required notification for all of its facilities in a single  
38 form designed for that purpose.

39 (c) No person shall be required to provide notification until and  
40 unless the local enforcement agency makes a form for this purpose

1 available. Facilities performing mechanical stud and clasp ear  
2 piercing on the date the local enforcement agency makes the form  
3 available shall have five months from that date in which to  
4 complete and submit the form. Facilities that begin performing  
5 mechanical stud and clasp ear piercing after the form is made  
6 available shall be required to submit the form prior to offering  
7 services.

8 119327. (a) A person piercing an ear with a mechanical stud  
9 and clasp piercing device shall meet the following requirements  
10 before providing mechanical stud and clasp ear piercing services:

11 (1) Is at least 18 years of age.

12 (2) Received one hour of training that covers all of the following  
13 topics:

14 (A) Proper use of the mechanical stud and clasp ear piercing  
15 device.

16 (B) Types of bloodborne pathogens and the prevention of the  
17 transmission of bloodborne communicable diseases.

18 (C) Proper hand hygiene.

19 (D) The safe and sanitary use of single-use equipment, including,  
20 but not limited to, gloves, towels, and disinfectant wipes.

21 (3) If the person will also be piercing the cartilage of the upper  
22 ear, that person shall also receive training on proper techniques  
23 for this type of piercing.

24 (b) The training requirements of subdivision (a) shall not apply  
25 to an individual who was employed to perform mechanical stud  
26 and clasp ear piercing prior to the effective date of this article.

27 119328. (a) A local enforcement agency may charge a one-time  
28 facility notification fee in an amount between twenty-five dollars  
29 (\$25) and forty-five dollars (\$45) for each facility operating  
30 pursuant to this article. The fee charged shall not exceed the amount  
31 reasonably necessary to cover the actual costs of administering  
32 and enforcing the provisions of this article.

33 (b) After December 31, 2015, a county may charge a different  
34 fee, set by local ordinance, provided that the increased fee is  
35 necessary to cover the actual costs of administering and enforcing  
36 the provisions of this article.

37 (c) The local enforcement agency may not charge a different  
38 fee for facilities based on what part of the ear is being pierced.

39 SEC. 3. This act shall become operative on July 1, 2012.



1 SEC. 4. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution for certain  
3 costs that may be incurred under this act because a local agency  
4 or school district has the authority to levy service charges, fees,  
5 or assessments sufficient to pay for the program or level of service  
6 mandated by this act, within the meaning of Section 17556 of the  
7 Government Code.

8 No reimbursement is required by this act pursuant to Section 6  
9 of Article XIII B of the California Constitution for those costs that  
10 may be incurred by a local agency or school district because this  
11 act creates a new crime or infraction, eliminates a crime or  
12 infraction, or changes the penalty for a crime or infraction, within  
13 the meaning of Section 17556 of the Government Code, or changes  
14 the definition of a crime within the meaning of Section 6 of Article  
15 XIII B of the California Constitution.

AMENDED IN ASSEMBLY JUNE 21, 2011

AMENDED IN SENATE APRIL 13, 2011

**SENATE BILL**

**No. 541**

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**Introduced by Senator Price**

February 17, 2011

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An act to add Section 40 to the Business and Professions Code, relating to ~~profession~~ *professions* and vocations, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 541, as amended, Price. ~~Contractors' State License Regulatory boards: expert consultants.~~

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law, the Osteopathic Act, requires the Osteopathic Medical Board of California to regulate osteopathic physicians and surgeons. Existing law generally requires applicants for a license to pass an examination and authorizes boards to take disciplinary action against licensees for violations of law. Existing law establishes standards relating to personal service contracts in state employment.

This bill would authorize these boards to enter into an agreement with an expert consultant, subject to the standards regarding personal service contracts described above, to provide enforcement and examination assistance. The bill would require each board to establish policies and procedures for the selection and use of these consultants.



This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 40 is added to the Business and  
2 Professions Code, to read:

3 40. (a) Subject to the standards described in Section 19130 of  
4 the Government Code, any board, as defined in Section 22, the  
5 State Board of Chiropractic Examiners, or the Osteopathic Medical  
6 Board of California may enter into an agreement with an expert  
7 consultant to do any of the following:

8 (1) Provide an expert opinion on enforcement-related matters,  
9 including providing testimony at an administrative hearing.

10 (2) Assist the board as a subject matter expert in examination  
11 development, examination validation, or occupational analyses.

12 (3) Evaluate the mental or physical health of a licensee or an  
13 applicant for a license as may be necessary to protect the public  
14 health and safety.

15 (b) An executed contract between a board and an expert  
16 consultant shall be exempt from the provisions of Part 2  
17 (commencing with Section 10100) of Division 2 of the Public  
18 Contract Code.

19 (c) Each board shall establish policies and procedures for the  
20 selection and use of expert consultants.

21 (d) *Nothing in this section shall be construed to expand the*  
22 *scope of practice of an expert consultant providing services*  
23 *pursuant to this section.*

24 SEC. 2. This act is an urgency statute necessary for the  
25 immediate preservation of the public peace, health, or safety within  
26 the meaning of Article IV of the Constitution and shall go into  
27 immediate effect. The facts constituting the necessity are:

28 To ensure that licensees engaging in certain professions and  
29 vocations are adequately regulated at the earliest possible time in  
30 order to protect and safeguard consumers and the public in this  
31 state, it is necessary that this act take effect immediately.

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Introduced by Senator Lieu

February 18, 2011

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~~An act to amend Section 70.1 of the Labor Code, relating to employment.~~ *An act to amend Section 22706 of the Business and Professions Code, relating to tanning facilities.*

LEGISLATIVE COUNSEL'S DIGEST

SB 746, as amended, Lieu. ~~Employment: Industrial Welfare Commission: membership.~~ *Tanning facilities.*

*Existing law, the Filante Tanning Facility Act of 1988, provides for regulation of tanning facilities by the Department of Consumer Affairs, and a violation of the act is a crime. Existing law prohibits persons under 14 years of age from using an ultraviolet tanning device and prohibits persons between 14 and 18 years of age from using that device without specified consent from a parent or legal guardian.*

*This bill would eliminate that consent option and would prohibit persons under 18 years of age from using an ultraviolet tanning device. By expanding the scope of a crime, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law specifies that the Industrial Welfare Commission, within the Department of Industrial Relations, consists of 2 representatives of~~



~~organized labor who are members of recognized labor organizations,  
2 representatives of employers, and one representative of the general  
public and that the membership must include members of both sexes.~~

~~This bill would make a nonsubstantive change to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 22706 of the Business and Professions  
2     Code is amended to read:

3     22706. (a) A tanning facility shall:

4     (1) Have an operator present during operating hours who is  
5     sufficiently knowledgeable in the correct operation of the tanning  
6     devices used at the facility so that he or she is able to inform and  
7     assist each customer in the proper use of the tanning devices.

8     (2) Before each use of an ultraviolet tanning device, provide  
9     each customer with properly sanitized protective eyewear that  
10    protects the eye from ultraviolet radiation and allows adequate  
11    vision to maintain balance; and not allow a person to use an  
12    ultraviolet tanning device if that person does not use the protective  
13    eyewear.

14    (3) Show each customer how to use suitable physical aids, such  
15    as handrails and markings on the floor, to maintain proper exposure  
16    distance as recommended by the manufacturer.

17    (4) Use a timer on an ultraviolet tanning device that has an  
18    accuracy of plus or minus 10 percent of any selected timer interval.  
19    The timer shall also be remotely located so that customers cannot  
20    set their own exposure time.

21    (5) Limit each customer using an ultraviolet tanning device to  
22    the maximum exposure time as recommended by the manufacturer.

23    (6) Control the interior temperature of a tanning facility so that  
24    it does not exceed 100 degrees Fahrenheit.

25    (b) (1) Every person who uses a tanning facility shall sign a  
26    written statement acknowledging that he or she has read and  
27    understood the warnings before using the device; and agrees to  
28    use the protective eyewear that the tanning facility provides. The  
29    statement of acknowledgment shall be retained by the tanning  
30    facility until the end of the calendar year at which time each person

1 who is a current customer of the facility shall be required to renew  
2 that acknowledgment.

3 (2) Whenever using a tanning device a person shall use the  
4 protective eyewear that the tanning facility provides.

5 (3) Persons under ~~14~~ 18 years of age are prohibited from using  
6 an ultraviolet tanning device.

7 ~~(4) A tanning facility shall not allow a person between 14 and~~  
8 ~~18 years of age to use an ultraviolet tanning device unless that~~  
9 ~~person's parent or legal guardian provides consent. For purposes~~  
10 ~~of this paragraph, "consent" means that the parent or legal guardian~~  
11 ~~appears in person at the minor's initial use of an ultraviolet tanning~~  
12 ~~device within a consecutive 12-month period and signs a written~~  
13 ~~consent form in the presence of the owner or an employee of the~~  
14 ~~facility. The minor's parent or legal guardian may withdraw this~~  
15 ~~consent at any time. Unless so withdrawn, this consent shall be~~  
16 ~~valid for 12 months from the date the written consent form is signed~~  
17 ~~and may be renewed annually in accordance with this paragraph.~~  
18 ~~The written consent form required by this paragraph shall state~~  
19 ~~that the parent or legal guardian has read and understood the~~  
20 ~~warnings given by the tanning facility, consents to the minor's use~~  
21 ~~of an ultraviolet tanning device, and agrees that the minor will use~~  
22 ~~the protective eyewear that the tanning facility provides.~~

23 ~~(5)~~

24 (4) Proof of age shall be satisfied with a driver's license or other  
25 government issued identification containing the date of birth and  
26 a photograph of the individual.

27 *SEC. 2. No reimbursement is required by this act pursuant to*  
28 *Section 6 of Article XIII B of the California Constitution because*  
29 *the only costs that may be incurred by a local agency or school*  
30 *district will be incurred because this act creates a new crime or*  
31 *infraction, eliminates a crime or infraction, or changes the penalty*  
32 *for a crime or infraction, within the meaning of Section 17556 of*  
33 *the Government Code, or changes the definition of a crime within*  
34 *the meaning of Section 6 of Article XIII B of the California*  
35 *Constitution.*

36 ~~SECTION 1. Section 70.1 of the Labor Code is amended to~~  
37 ~~read:~~

38 ~~70.1. The Industrial Welfare Commission consists of two~~  
39 ~~representatives of organized labor who are members of recognized~~  
40 ~~labor organizations, two representatives of employers, and one~~



- 1 representative of the general public. The membership shall include
- 2 members of both sexes.

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AMENDED IN ASSEMBLY JUNE 27, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 706**

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**Introduced by Senator Price**

February 18, 2011

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An act to amend Sections 27 and ~~10004~~, 10004, 10166.02, 10166.12, 10175.2, 10236.2, 10450.6, 10470, 10470.1, 10471, 10471.1, 10471.3, 10471.5, 10472, 10472.1, 10473, 10473.1, 10474, 10474.5, 10475, 10476, 10477, 10479, and 10481 of, to amend, repeal, and add Section 11360 of, to add Sections 10050.1, 10100.4, 10106, 10186, 10186.1, 10186.2, 10186.9, 11310.1, 11313.2, 11315.7, 11315.9, 11319.1, 11319.2, and 11319.3 to, and to add and repeal Section 10186.8 of, the Business and Professions Code, relating to business and professions.

LEGISLATIVE COUNSEL'S DIGEST

SB 706, as amended, Price. Business and professions.

(1) Existing law provides for the licensure, endorsement, and regulation of real estate brokers, real estate salespersons, and mortgage loan originators by the Real Estate Commissioner of the Department of Real Estate in the Business, Transportation and Housing Agency. The Office of Real Estate Appraisers within the Business, Transportation and Housing Agency is under the supervision and control of the Secretary of Business, Transportation and Housing. Existing law provides for the licensure, certification, and regulation of persons who engage in specified real estate appraisal activity by the Director of the



Office of Real Estate Appraisers, who is responsible to the Secretary of Business, Transportation and Housing.

This bill would state that protection of the public shall be the highest priority for the department and the office in exercising their licensing, regulatory, and disciplinary functions.

The bill would authorize the department and the office to enter into a settlement with a licensee or applicant instead of the issuance of an accusation or statement of issues against the licensee or applicant and would require the settlement to identify the factual basis for the action being taken and the statutes or regulations that have been violated. The bill would authorize an administrative law judge to order a licensee in a disciplinary proceeding to pay, upon request of the commissioner or the director, the reasonable costs of investigating and prosecuting the disciplinary case against the licensee.

When the commissioner or *the* director disciplines a licensee or registrant by placing him or her on probation, the bill would authorize the commissioner and the director to require the licensee or registrant to pay the costs associated with the probation monitoring.

The bill would provide that a license or certificate shall be suspended if the licensee or registrant is incarcerated after the conviction of a felony and would require the department or the office to notify the licensee or registrant of the suspension and of his or her right to a specified hearing. The bill would specify that no hearing is required, however, if the conviction was for a violation of federal law or state law for the use of dangerous drugs or controlled substances or specified sex offenses.

The bill would require a licensee and registrant to report to the department or the office when there is an indictment or information charging a felony against the licensee or registrant or when he or she has been convicted of a felony or misdemeanor. The bill would make a violation of this reporting requirement a cause for discipline.

The bill would require costs recovered pursuant to these disciplinary proceedings to be deposited in either the Real Estate Fund or the Real Estate Appraisers Regulation Fund, as specified, and would make the funds available upon appropriation by the Legislature.

The bill would require the Secretary of Business, Transportation and Housing, by January 31, 2012, to appoint a Department of Real Estate Enforcement Program Monitor whose duties would include monitoring and evaluating the department's disciplinary system and reporting his or her findings, as specified, to the department and the Legislature no

later than August 1, 2012. This bill would make the provisions that pertain to the enforcement program monitor inoperative on January 31, 2014.

The bill would require the secretary to review and evaluate the office, and make recommendations to the Legislature by October 1, 2014, regarding whether the office should be, among other things, consolidated within the department or another state entity.

The bill would provide that, on and after January 1, 2015, the department and the office shall be subject to specified review by the appropriate policy committees of the Legislature.

*(2) Existing law authorizes the director to adopt regulations relating to the license renewal process that include, among other things, continuing education requirements. Existing law authorizes renewal applicants to certify that they have read and understand specified state and federal laws instead of being required to take a course relating to federal and state appraisal laws.*

*This bill would, commencing January 1, 2013, require these renewal applicants to take that course.*

*(3) Existing law establishes in the Real Estate Fund the Recovery Account, which is continuously appropriated for purposes of funding the Real Estate Recovery Program. The account is funded by crediting a specified percentage of any real estate license fee collected unless the balance in the Recovery Account is at least \$3,500,000. Existing law provides that when an aggrieved person obtains a final judgment in a court of competent jurisdiction or an arbitration award against a defendant based upon specified misconduct by the defendant, the aggrieved person may file a claim application with the Department of Real Estate for payment from the Recovery Account of the amount unpaid on the judgment which represents an actual and direct loss to the claimant in the transaction. Existing law requires the commissioner to render a final written decision on the application within 90 days, except as specified, after a completed application has been received. Under existing law, if the commissioner fails to render a written decision in response to the claim within a specified timeframe, the claim shall be deemed to have been denied by the commissioner on the final day for rendering the decision.*

*This bill would rename the Recovery Account as the Consumer Recovery Account and would delete the provision specifying that the claim shall be deemed to have been denied in the circumstances described above.*



(2)

(4) Existing law provides for the regulation of various profession and vocation licensees by boards within the Department of Consumer Affairs. The department is under the control of the Director of Consumer Affairs. Existing law, the Chiropractic Act, enacted by initiative, provides for the licensure and regulation of chiropractors by the State Board of Chiropractic Examiners. Existing law requires certain boards within the department to disclose on the Internet information on their respective licensees.

~~This bill would delete certain healing arts boards within the department from that requirement.~~ The bill would require the California Board of Accountancy, the California Architects Board, the State Athletic Commission, the State Board of Barbering and Cosmetology, the State Board of Guide Dogs for the Blind, the State Board of Chiropractic Examiners, the Department of Real Estate, and the Office of Real Estate Appraisers to disclose on the Internet information on their respective licensees, as specified.

The

(5) The bill would make other conforming and technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 27 of the Business and Professions Code  
2 is amended to read:  
3 27. (a) Each entity specified in subdivisions (c), (d), (e), ~~and~~  
4 (f), ~~and~~ (g) shall provide on the Internet information regarding the  
5 status of every license issued by that entity in accordance with the  
6 California Public Records Act (Chapter 3.5 (commencing with  
7 Section 6250) of Division 7 of Title 1 of the Government Code)  
8 and the Information Practices Act of 1977 (Chapter 1 (commencing  
9 with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil  
10 Code). The public information to be provided on the Internet shall  
11 include information on suspensions and revocations of licenses  
12 issued by the entity and other related enforcement action, including  
13 accusations filed pursuant to the Administrative Procedure Act  
14 (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
15 Division 3 of Title 2 of the Government Code) taken by the entity  
16 relative to persons, businesses, or facilities subject to licensure or



1 regulation by the entity. The information may not include personal  
2 information, including home telephone number, date of birth, or  
3 social security number. Each entity shall disclose a licensee's  
4 address of record. However, each entity shall allow a licensee to  
5 provide a post office box number or other alternate address, instead  
6 of his or her home address, as the address of record. This section  
7 shall not preclude an entity from also requiring a licensee, who  
8 has provided a post office box number or other alternative mailing  
9 address as his or her address of record, to provide a physical  
10 business address or residence address only for the entity's internal  
11 administrative use and not for disclosure as the licensee's address  
12 of record or disclosure on the Internet.

13 (b) In providing information on the Internet, each entity specified  
14 in subdivisions (c) and (d) shall comply with the Department of  
15 Consumer Affairs Guidelines for Access to Public Records.

16 (c) Each of the following entities within the Department of  
17 Consumer Affairs shall comply with the requirements of this  
18 section:

19 (1) The Board for Professional Engineers, Land Surveyors, and  
20 Geologists shall disclose information on its registrants and  
21 licensees.

22 ~~(2) The Structural Pest Control Board shall disclose information~~  
23 ~~on its licensees, including applicators, field representatives, and~~  
24 ~~operators in the areas of fumigation, general pest and wood~~  
25 ~~destroying pests and organisms, and wood roof cleaning and~~  
26 ~~treatment.~~

27 ~~(3)~~

28 (2) The Bureau of Automotive Repair shall disclose information  
29 on its licensees, including auto repair dealers, smog stations, lamp  
30 and brake stations, smog check technicians, and smog inspection  
31 certification stations.

32 ~~(4)~~

33 (3) The Bureau of Electronic and Appliance Repair, Home  
34 Furnishings, and Thermal Insulation shall disclose information on  
35 its licensees and registrants, including major appliance repair  
36 dealers, combination dealers (electronic and appliance), electronic  
37 repair dealers, service contract sellers, and service contract  
38 administrators.

39 ~~(5)~~

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

~~(6)~~  
(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

~~(7)~~  
(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

~~(8)~~  
(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

~~(9)~~  
(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

~~(10)~~  
(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

~~(11)~~  
(10) The State Athletic Commission shall disclose information on its licensees and registrants.

~~(12)~~  
(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

~~(13)~~  
(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) *The Acupuncture Board shall disclose information on its licensees.*

(14) *The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family*

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Introduced by Senator Lieu

February 18, 2011

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~~An act to amend Section 70.1 of the Labor Code, relating to employment. An act to amend Section 22706 of the Business and Professions Code, relating to tanning facilities.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 746, as amended, Lieu. ~~Employment: Industrial Welfare Commission: membership. Tanning facilities.~~

*Existing law, the Filante Tanning Facility Act of 1988, provides for regulation of tanning facilities by the Department of Consumer Affairs, and a violation of the act is a crime. Existing law prohibits persons under 14 years of age from using an ultraviolet tanning device and prohibits persons between 14 and 18 years of age from using that device without specified consent from a parent or legal guardian.*

*This bill would eliminate that consent option and would prohibit persons under 18 years of age from using an ultraviolet tanning device. By expanding the scope of a crime, the bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law specifies that the Industrial Welfare Commission, within the Department of Industrial Relations, consists of 2 representatives of~~



~~organized labor who are members of recognized labor organizations;  
2 representatives of employers, and one representative of the general  
public and that the membership must include members of both sexes.~~

~~This bill would make a nonsubstantive change to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 22706 of the Business and Professions  
2     Code is amended to read:

3     22706. (a) A tanning facility shall:

4     (1) Have an operator present during operating hours who is  
5     sufficiently knowledgeable in the correct operation of the tanning  
6     devices used at the facility so that he or she is able to inform and  
7     assist each customer in the proper use of the tanning devices.

8     (2) Before each use of an ultraviolet tanning device, provide  
9     each customer with properly sanitized protective eyewear that  
10    protects the eye from ultraviolet radiation and allows adequate  
11    vision to maintain balance; and not allow a person to use an  
12    ultraviolet tanning device if that person does not use the protective  
13    eyewear.

14    (3) Show each customer how to use suitable physical aids, such  
15    as handrails and markings on the floor, to maintain proper exposure  
16    distance as recommended by the manufacturer.

17    (4) Use a timer on an ultraviolet tanning device that has an  
18    accuracy of plus or minus 10 percent of any selected timer interval.  
19    The timer shall also be remotely located so that customers cannot  
20    set their own exposure time.

21    (5) Limit each customer using an ultraviolet tanning device to  
22    the maximum exposure time as recommended by the manufacturer.

23    (6) Control the interior temperature of a tanning facility so that  
24    it does not exceed 100 degrees Fahrenheit.

25    (b) (1) Every person who uses a tanning facility shall sign a  
26    written statement acknowledging that he or she has read and  
27    understood the warnings before using the device; and agrees to  
28    use the protective eyewear that the tanning facility provides. The  
29    statement of acknowledgment shall be retained by the tanning  
30    facility until the end of the calendar year at which time each person

1 who is a current customer of the facility shall be required to renew  
2 that acknowledgment.

3 (2) Whenever using a tanning device a person shall use the  
4 protective eyewear that the tanning facility provides.

5 (3) Persons under ~~14~~ 18 years of age are prohibited from using  
6 an ultraviolet tanning device.

7 ~~(4) A tanning facility shall not allow a person between 14 and~~  
8 ~~18 years of age to use an ultraviolet tanning device unless that~~  
9 ~~person's parent or legal guardian provides consent. For purposes~~  
10 ~~of this paragraph, "consent" means that the parent or legal guardian~~  
11 ~~appears in person at the minor's initial use of an ultraviolet tanning~~  
12 ~~device within a consecutive 12-month period and signs a written~~  
13 ~~consent form in the presence of the owner or an employee of the~~  
14 ~~facility. The minor's parent or legal guardian may withdraw this~~  
15 ~~consent at any time. Unless so withdrawn, this consent shall be~~  
16 ~~valid for 12 months from the date the written consent form is signed~~  
17 ~~and may be renewed annually in accordance with this paragraph.~~  
18 ~~The written consent form required by this paragraph shall state~~  
19 ~~that the parent or legal guardian has read and understood the~~  
20 ~~warnings given by the tanning facility, consents to the minor's use~~  
21 ~~of an ultraviolet tanning device, and agrees that the minor will use~~  
22 ~~the protective eyewear that the tanning facility provides.~~

23 ~~(5)~~

24 (4) Proof of age shall be satisfied with a driver's license or other  
25 government issued identification containing the date of birth and  
26 a photograph of the individual.

27 *SEC. 2. No reimbursement is required by this act pursuant to*  
28 *Section 6 of Article XIII B of the California Constitution because*  
29 *the only costs that may be incurred by a local agency or school*  
30 *district will be incurred because this act creates a new crime or*  
31 *infraction, eliminates a crime or infraction, or changes the penalty*  
32 *for a crime or infraction, within the meaning of Section 17556 of*  
33 *the Government Code, or changes the definition of a crime within*  
34 *the meaning of Section 6 of Article XIII B of the California*  
35 *Constitution.*

36 ~~SECTION 1. Section 70.1 of the Labor Code is amended to~~  
37 ~~read:~~

38 ~~70.1. The Industrial Welfare Commission consists of two~~  
39 ~~representatives of organized labor who are members of recognized~~  
40 ~~labor organizations, two representatives of employers, and one~~

- 1 ~~representative of the general public. The membership shall include~~
- 2 ~~members of both sexes.~~

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State and Consumer Services Agency – Governor Edmund G. Brown Jr.  
**Board of Barbering and Cosmetology-Department of Consumer Affairs**  
 PO Box 944226, Sacramento, CA 94244  
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## MEMORANDUM

**DATE:** July 11, 2011

**TO:** Members, Board of Barbering and Cosmetology

**FROM:** Kristy Underwood *KU*  
 Executive Officer

**SUBJECT:** Regulations Updates and Approvals

**Administrative Fine Schedule:** (Attachments A) This rulemaking was rejected by the Office of Administrative Law (OAL) and is being brought back to the Board to address issues of “clarity” one of the standards that must be met by regulations according to the Administrative Procedures Act. The issues relate to changes in the first modified text involving Section 979 (Minimum Equipment and Supplies), and Section 995 (Building standards). In both cases, it is unclear as to what violations are included as part of the sections. The schedule includes subsections of Section 978 that have separate fines, which could cause confusion; the schedule’s 995 section, meanwhile, could be construed as including subsection (a), a clause involving ventilation that exists in the California Code of Regulations but has never been present in the fine schedule. Staff made these changes and others recommended by OAL and launched the necessary 15-day notice on June 9, 2011.

Action Needed: Approval of Second Modified Text noticed to the public on June 9; consideration of any public comments received by the end of the June 24, 2011 public comment period; and the Final Statement of Reasons.

**Disciplinary Guidelines:** (Attachments B) The public comment period for this proposal ended on March 21. No comments were received. Although it is permissible to forgo further Board approval where no changes are made to the language and no comments are received during the comment period, OAL prefers Boards approve regulatory language and final statements of reasons after the hearing or public comment period, a point it made in its rejection of the Administrative Fine Schedule.

Action Needed: Approval of regulatory language and Final Statement of Reasons.



**Scoring Methods in Examinations:** (Attachments C) A public hearing was held on June 13, 2011. One comment recommending changes to the Specific Language presented to the public was received during the public comment period.

Action Needed: Consideration of comment. If the Board decides to reject the comment, it can approve the regulation text as is and the Final Statement of Reasons, which will be filed with the Board's response and its reason for rejecting the comment. If the Board accepts the comment, it will need to approve changes to the regulation language, whereupon staff will launch a 15-day notice. The regulation would then need to be brought back to the Board for approval following the comment period.

**Curriculum:** (Attachments D) A public hearing concerning the proposed changes in school curriculums for manicurists, barbers, electrologists and externs was held June 6, 2011. There was a single public comment made in support of the changes. This rulemaking is a new submittal after it was rejected by Agency last year because of a proposed increase in the manicuring curriculum's hours. The proposed increase in hours was removed.

Action needed: Approval of Specific Language and Final Statement of Reasons (In preparing the draft Final Statement of Reasons presented here, staff anticipated the Board would accept the comment, since it is in support of the Board's proposal).

**Unregulated Services:** (Attachments E) No public hearing on this proposed rulemaking was held, but two comments recommending changes to the Specific Language presented to the public were submitted during the public comment period.

Action Needed: Consideration of the comments. If the Board decides to reject the comments, it can approve the regulation text as is and the Final Statement of Reasons, which will be filed with the Board's responses and its reasons for rejecting the comments. If the Board accepts either of the comments, it will need to approve changes to the regulation language, whereupon staff will launch a 15-day notice. The regulation would then need to be brought back to the Board for approval following the comment period.

**Dishonored Check Fee:** (Attachments F) The public comment period for this proposal ended on March 21. No hearing was scheduled and no comments were received. Although it is permissible to forgo further Board approval where no changes are made to the language and no comments are received during the comment period, OAL prefers Boards approve regulatory language and final statements of reasons after the hearing or public comment period, a point it made in its rejection of the Administrative Fine Schedule.

Action Needed: Approval of regulatory language and Final Statement of Reasons.



**FINAL STATEMENT OF REASONS**

**Hearing Date:** June 7, 2010

**Subject Matter of Proposed Regulations:** Administrative Fine Schedule

**Sections Affected:** Section 974, California Code of Regulations

**Updated Information**

First Modified Text: During the course of this rulemaking, the Board amended the regulations originally noticed to the public by amending some of the proposed language and fines in Section 974. These changes were submitted for public comment from December 9, 2010 through January 3, 2011. The changes and the reasons for them were as follows:

- Separate violations for Sections 965(a), 965(b), and 965(c) have been replaced by a single violation, for Section 965. The Board has determined the change is necessary in order to prevent a licensee from being fined more than once for what the Board believes is essentially the same offense.
- Separate violations for Sections 978(a)(1), 978(a)(2), 978(a)(3), and 978(a)(4) have been replaced by a single violation, for Section 978. The Board has determined the change is necessary in order to prevent a licensee from being fined more than once for what the Board believes is essentially the same offense.
- Separate violations for Sections 987(a), 987(b), and 987(c) have been replaced by a single violation, for Section 987. The Board has determined the change is necessary in order to prevent a licensee from being fined more than once for what the Board believes is essentially the same offense.
- Separate violations for Sections 988(a), 988(b), 988(c) and 988(d) have been replaced by a single violation, for Section 988. The Board has determined the change is necessary in order to prevent a licensee from being fined more than once for what the Board believes is essentially the same offense.
- Separate violations for Sections 990(a), 990(b) and 990(c) have been replaced by a single violation, for Section 990. The Board has determined the change is necessary in order to prevent a licensee from being fined more than once for what the Board believes is essentially the same offense.
- Separate violations for Sections 993(a), and 993(b) have been replaced by a single violation, for Section 993. The Board has determined the change is necessary in order to prevent a licensee from being fined more than once for what the Board believes is essentially the same offense.
- Separate violations for Sections 994(a) and 994(b) have been replaced by a single violation, for Section 994. The Board has determined the change is necessary in order to prevent a licensee from being fined more than once for what the Board believes is essentially the same offense.
- Separate violations for Sections 995(b), 995(c) and 995(d) and 995(e) have been replaced by a single violation, for Section 995. The Board has determined the change is necessary in order to prevent a licensee from being fined more than once for what the Board believes is essentially the same offense.

Also, during the course of preparing the final rulemaking file, the Board discovered that the minutes of the Board meeting referenced in the Initial Statement of Reasons were mistakenly dated "January 23, 2010" in the Initial Statement of Reasons' "Underlying Data" section. The minutes that were in fact available for



inspection by the public are dated January 24, 2010. There were no requests from the public to view the minutes or any other documents associated with this rulemaking.

Second Modified Text: The Board submitted the rulemaking file to the Office of Administrative Law (OAL) on April 18, 2011. On May 24, 2011, OAL notified the Board of the disapproval of the regulation in connection with the Administrative Procedures Act's "clarity" standard and other issues. The Board subsequently made a number of changes to the proposed regulation addressing the issues raised by OAL as well as some changes of its own, and presented a second modified text for public comment from June 9, 2011 to June 24, 2011. The changes in the second modified text and the reasons for them were as follows:

- Revises the language of 974(a) to reflect the correct citation order.
- Removes a redundant reference to "Schedule of Administrative Fines."
- Indicates in underlined italics that the "Unlicensed Individual" category is a new, distinct category from the other Section 7317 violations in the fine schedule for the purposes of the schedule. This should have been underlined in the original text of the proposed regulation as well as in the first modified text.
- Adds an "i" to the word "illegal" to fix a typographical error in the description of Section 7349.1.
- Adds the words "or air hand dryers" to the descriptive language of Section 7352 to accommodate an amendment to the Business & Professions Code that went into effect on January 1, 2011.
- The deletion of the original \$100 fine under "1<sup>st</sup> violation" in Section 7349.1 was not properly noticed in strikeout in either the original language or the first modified text. The second modified text corrects that oversight. In Section 982 under "1<sup>st</sup> violation," the deletion of the existing \$500 fine was not deleted in strike out in the original text or first modified text, nor was the new \$100 fine amount noticed in underline. The second modified text corrects that oversight.
- The word "Entrance" is removed from the description of Section 7360 because there is no specific requirement in the Business and Professions Code concerning entrances to mobile units.
- Changed "7404(i)" to "7404(l). Subsection (l) is the correct reference with regard to interfering with an inspection.
- Adds subsection letters (a)(1), (a)(2), (a)(3), and (a)(4) to the category that was listed as "978. Minimum Equipment and Supplies" in the First Modified Text. This was done to clarify that the fines apply only to those subsections and not to violations of other subsections of 978, which have their own fines, according to the schedule. The description has also been amended to more closely and specifically describe the violations to subsections 978(a)(1), (a)(2), (a)(3), and (a)(4).
- Consolidates Subsections 979(a), 979(b), 979(c), 979(d) into a single violation category, "Section 979. Disinfecting Non-Electrical Instruments and Equipment." This corrects an oversight in the first modified text by Board staff in which the subsections were left as separate categories. The fine schedule revisions approved by the Board on October 25, 2010 had directed that the subsections to 979 be consolidated as they now appear in the second modified text under the same \$100, \$250 and \$500 fines. As with other instances in which the proposed fine schedule consolidates subsections into a single category, the Board had determined the change is necessary in order to prevent a licensee from being fined more than once for what the Board believes is essentially the same offense.
- Consolidates Sections 983(a) and 983(b) into a single Section "983. Personal Cleanliness." This corrects an oversight in the first modified text by Board staff in which the subsections were left as separate categories. The fine schedule revisions approved by the Board on October 25, 2010 had directed that 983(a) and 983(b) be consolidated as they now appear in the second modified text.
- Added subsection letters (b), (c), (d), and (e) to the category that was listed as "Section 995. Building Standards" in the First Modified Text. This was done to clarify that the fines apply only to

those subsections, and not to violations of Subsection 995(a) (which references ventilation standards), a subsection that exists in regulations but is not included either on the existing fine schedule or the one proposed by the Board. The description has also been amended to more closely and specifically describe the violations of 995(b),(c),(d), and (e), which concern plumbing requirements.

- The second modified text makes two revisions concerning the use of the term “waivable” in the last column of the fine schedule. In the first modified text, the Board changed the word “correctable” to “waiveable,” in an effort to better reflect, for the benefit of the licensee, the legislative intent of Section 7409 of the Business and Profession Code, i.e., that there might be a circumstance under which a licensee might not have to pay a fine for a violation. In the second modified text, however, the Board changes the spelling of “waiveable” to “waivable” to reflect a more common spelling, and also amends the language of Section 974(b) to explicitly condition the waiving of a fine to a violation being “correctable” under Business and Professions Code Section 7409. The changes accomplish the Board’s goal of better reflecting the legislative intent of Section 7409 while at the same time preserving that statute’s language, and satisfying the language of Section 7407, which requires the Board to indicate whether a violation is “correctable.”

### **Local Mandate**

A mandate is not imposed on local agencies or school districts.

### **Small Business Impact**

There is no economic impact on small business. This regulation only applies to individuals or establishments who do not follow the laws of the State of California.

### **Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

### **Summary of, and Responses to, Comments Received During the Initial 45-day Comment Period**

No comments were received.

### **Summary of, and Responses to, Comments Received During the 15-day Comment Period on the First Modified Text:**

No Comments were received.

### **Summary of, and Responses to, Comments Received During the 15-day Comment Period on the Second Modified Text:**

No Comments were received.



## BOARD OF BARBERING AND COSMETOLOGY

## Title 16, Division 9 of the California Code of Regulations.

## Second Modified Text

## LEGEND

<u>Underline</u>	Indicates proposed amendments or additions to the existing regulation made in the originally proposed text.
<del>Strikeout</del>	Indicates proposed deletions to the existing regulation made in the originally proposed text.
<u>Double Underline</u>	Indicates an addition to the originally proposed text of the regulation in the first modified text.
<del>Double Strikeout</del>	Indicates a deletion to the originally proposed text of the regulation in the first modified text.
<i>Italics</i>	Indicates an addition to the first modified text of the regulation in this second modified text.
<del>Italics</del>	Indicates a deletion to the first modified text of the regulations in this second modified text

Amend Section 974 of the California Code of Regulations as follows:

#### 974. Schedule of Administrative Fines

(a) An administrative fine may be assessed for violations of the specified sections of the Business and Professions Code and ~~Title 16~~ of Division 9 of Title 16 of the California Code of Regulations as follows:

#### ~~Schedule of Administrative Fines~~

Section	1 <sup>st</sup> Violation	2 <sup>nd</sup> <u>Violation</u>	3 <sup>rd</sup> <u>Violation</u>	<del>Correctable</del> <u>Waiveable</u> <u>Waivable</u>
7313. <u>Access to Establishment for Inspection</u>	400 <u>250</u>	<u>500</u>	<u>750</u>	No
7317. <u>Unlicensed Establishment</u>	4,000 <u>500</u>	<u>1,000</u>	<u>1,000</u>	No
<u>7317. Unlicensed Individual</u>	<u>1,000</u>	<u>1,000</u>	<u>1,000</u>	<u>No</u>
<u>7317. Expired Establishment License</u>	<u>250</u>	<u>300</u>	<u>500</u>	<u>No</u>
<u>7317. Expired Individual License</u>	<u>250</u>	<u>300</u>	<u>500</u>	<u>No</u>
<u>7317. Individual Working in an Expired Establishment</u>	<u>25</u>	<u>50</u>	<u>100</u>	<u>No</u>
<u>7317. Individual Working in an Unlicensed Establishment</u>	<u>250</u>	<u>300</u>	<u>500</u>	<u>No</u>
7320. <u>Practice of Medicine</u>	1,000	<u>1,000</u>	<u>1,000</u>	No
7320.1. <u>Use of Illegal Metal Instruments</u>	500 <u>250</u>	<u>500</u>	<u>500</u>	No



7320.2. <u>Illegal Treatment Methods</u>	500	<u>500</u>	<u>500</u>	No
7320.3	400			No
7320.4	400			No
7336. <u>No Supervision of Apprentice</u>	100	<u>150</u>	<u>200</u>	No
7347	400			No
7348. <u>No Licensee in Charge of Establishment</u>	100	<u>150</u>	<u>200</u>	No
7349. <u>Employing Unlicensed Persons</u>	1,000	<u>1,000</u>	<u>1,000</u>	No
7349.1. <u>Illegal Use of a Barber Pole</u>	<del>400</del> <u>25</u>	<u>50</u>	<u>100</u>	No
7350. <u>Establishment – Residential Use/Entrance/Prohibited Use</u>	400 <u>50</u>	<u>100</u>	<u>150</u>	No
7351. <u>Restroom Requirement – Clean/Storage/Floor/Vented</u>	400 <u>50</u>	<u>100</u>	<u>150</u>	No
7352. <u>No Soap/Towels or Air Hand Dryers in Hand Washing Facilities</u>	400 <u>50</u>	<u>100</u>	<u>150</u>	No
7358. <u>No Licensee in Charge of Mobile Unit</u>	100	<u>150</u>	<u>200</u>	No
7359. <u>Employing Unlicensed Person in Mobile Unit</u>	1,000	<u>1,000</u>	<u>1,000</u>	No
7360. <u>Mobile Unit – Residential/Entrance/Prohibited Use</u>	400 <u>50</u>	<u>100</u>	<u>150</u>	No
7400. <u>No Change of Address Notice Filed</u>	400 <u>50</u>	<u>100</u>	<u>150</u>	No
7404(i)(I). <u>Interference with Inspection</u>	<u>200</u>	<u>300</u>	<u>500</u>	No
904(a)	400			No
904(d). <u>No Photographic Identification Available</u>	400 <u>50</u>	<u>100</u>	<u>150</u>	No
905. <u>Consumer Info. Not Posted/Incorrect Size of Print (Health &amp; Safety)</u>	400 <u>50</u>	<u>100</u>	<u>150</u>	No
920. <u>Apprentice Training Records Not Available/Incomplete</u>	100	<u>150</u>	<u>200</u>	No
965(a). <u>License Not Displayed at Work Station-Display of Licenses</u>	400 <u>50</u>	<u>100</u>	<u>150</u>	No
965(b). <u>Establishment License Not Posted in Reception Area</u>	400 <u>50</u>	<u>400</u>	<u>150</u>	No
965(c). <u>Display of Expired/Invalid License</u>	400 <u>50</u>	<u>400</u>	<u>150</u>	No
978(a)(1). <u>Waste Receptacle Not Covered Minimum Equipment and Supplies (a)(1),(a)(2),(a)(3),(a)(4). Receptacles, Cabinets, and Containers</u>	400 <u>50</u>	<u>100</u>	<u>150</u>	No
978(a)(2). <u>Closed Receptacles for Soiled Towels/Gowns/Sheets</u>	400 <u>50</u>	<u>400</u>	<u>150</u>	No
978(a)(3). <u>Closed Cabinet for Clean Sheets</u>	400 <u>50</u>	<u>150</u>	<u>200</u>	No
978(a)(4). <u>No Disinfectant Container</u>	<del>400</del>	<u>400</u>	<u>150</u>	No
978(a)(5). <u>Insufficient Disinfectant in Container for Total Immersion</u>	100	<u>150</u>	<u>200</u>	No
978(a)(6). <u>No Steam/Dry Heat Sterilizer for Electrolgy Instruments</u>	400 <u>500</u>	<u>1,000</u>	<u>1,500</u>	No
978(b). <u>No Disinfectant Solution Available for Use</u>	500 <u>250</u>	<u>300</u>	<u>500</u>	No

978(c). <u>No Manufacturer-Labeled Container for Disinfectant</u>	500 <del>250</del>	300	500	No
979(a). <del>Non-Electrical Items Not Disinfected Properly</del> <u>Disinfecting Non-Electrical Instruments and Equipment</u>	500 <del>100</del>	250	500	No
979(b). <del>Disinfectant Not Changed/Covered</del>	<del>100</del>	<del>150</del>	<del>200</del>	<del>No</del>
979(c). <del>Soiled Non-electrical Instruments Not in Labeled Receptacle</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	<del>No</del>
979(d). <del>Incorrect Storage of Non-electrical Disinfected Items/Clean/Covered/Labeled</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	<del>No</del>
980(a). <u>Incorrect Disinfection of Electrical Items</u>	500 <del>100</del>	250	500	No
980(b). <u>Incorrect Storage of Electrical Disinfected Items</u>	500 <del>50</del>	100	150	No
980.1. <u>Incorrect Disinfection of Pedicure Spas (Per Chair)</u>	500	500	500	No
980.1(c)(7). 980.1(d)(8). <u>Incorrect/Missing Log</u> 980.1(e)(4).	100	150	200	No
980.2. <u>Incorrect Disinfection of "Pipeless" Footspas (Per Unit)</u>	500	500	500	No
980.2(b)(7). 980.2(c)(6). <u>Incorrect/Missing Log</u> 980.2(d)(3).	100	150	200	No
980.3. <u>Incorrect Disinfection of "Non-Whirlpool Foot Basin" (Per Unit)</u>	500 <del>100</del>	150	200	No
980.3(b)(6). <u>Incorrect/Missing Log</u>	50	100	150	No
981(a). <u>No Disposal of Non-Disinfected Items</u>	100	150	200	No
981(b). <u>Carry Instruments <del>of</del> or Supplies in or on Garments</u>	400 <del>50</del>	100	150	No
982. <u>Incorrect Sterilization of Electrology Instruments</u>	<del>500 100</del>	150	200	No
983(a). <del>Person/Attire Not Clean</del> <u>Personal Cleanliness</u>	400 <del>50</del>	100	150	No
983(b). <del>Not Washing Hands Before Services</del>	400 <del>50</del>	<del>100</del>	<del>150</del>	<del>No</del>
984. <u>Work on Person with Infectious/Communicable Disease</u>	100	250	500	No
985. <u>No Use of Neck Strips or Towel</u>	400 <del>50</del>	100	150	No
986. <u>Neck Dusters/Brushes Not Clean or Sanitary</u>	400 <del>50</del>	100	150	No
987(a). <del>Towels Not Covered/Laundered</del>	400 <del>50</del>	100	150	No
987(b). <del>Incorrect Method of Laundering Towels</del>	400 <del>50</del>	<del>100</del>	<del>150</del>	<del>No</del>
987(c). <del>Clean Towels Not Stored in Clean Cabinets</del>	400 <del>50</del>	<del>100</del>	<del>150</del>	<del>No</del>
988(a). <del>Cosmetics Not in Clean/Closed Containers-Liquids, Creams, Powders and Cosmetics</del>	400 <del>50</del>	100	150	No
988(b). <del>Containers Not Labeled/No Poison Label</del>	400 <del>50</del>	<del>100</del>	<del>150</del>	<del>No</del>
988(c). <del>Removing Cosmetic Preparations Causing Contamination</del>	400	<del>150</del>	<del>200</del>	<del>No</del>
988(d). <del>Cosmetic Pencils Not Sharpened Before Use</del>	400 <del>50</del>	<del>100</del>	<del>150</del>	<del>No</del>
989. <u>Prohibited Hazardous Substance/Use of Product</u>	500	500	500	No



<del>990(a). Headrests and Treatment Tables Not Clean/Covered</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	No
<del>990(b). Shampoo Bowls Not Clean/Repaired</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	No
<del>990(c). Treatment Tables Not Clean/Covered</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	No
991. Performing Invasive Procedures	500	500	500	No
992. Performing Invasive Skin Peeling/Dermis	500	500	500	No
<del>993(a). Illegal Prohibited Instruments on Premises/Razor Edged Tools</del>	<del>500 300</del>	<del>400</del>	<del>500</del>	No
<del>993(b). Illegal Instruments on Premises/Needle-like Instruments</del>	<del>500 300</del>	<del>400</del>	<del>500</del>	No
<del>994(a). Floors/Walls/Equipment Not in Clean Condition Cleanliness and Repair</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	No
<del>994(b). Accumulation of Waste</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	No
<del>995(b). No Hot/Cold Running Water in Area/Room Building Standards(b),(c),(d),(e). Plumbing Standards</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	No
<del>995(c). No Potable Drinking Water/Cups</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	No
<del>995(d). Hand Washing Facilities — No Running Water/Location</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	No
<del>995(e). No Public Restroom Located on Premises</del>	<del>100 50</del>	<del>100</del>	<del>150</del>	No

(b) A violation indicated in subdivision (a) as not ~~correctable~~ waivable means that the Board, in its discretion, has determined that the violation cannot be corrected pursuant to Business and Professions Code Section 7407, and therefore that the fine for the first violation may not be avoided as provided for in Section 7409 of the Business and Professions Code.

NOTE: Authority cited: Sections 7312, ~~and 7407-7406~~, and 7407, Business and Professions Code. Reference: Sections ~~7406~~7406, 7407 and 7409, Business and Professions Code.





BOARD OF BARBERING AND COSMETOLOGY

**FINAL STATEMENT OF REASONS**

**Hearing Date:** March 21, 2011

**Subject Matter of Proposed Regulations:** Disciplinary Guidelines

**Sections Affected:** Section 972, California Code of Regulations

**Updated Information**

There is no update to the initial statement of reasons.

**Local Mandate**

A mandate is not imposed on local agencies or school districts.

**Small Business Impact**

There is no economic impact on small business. This regulation only applies to individuals or establishments who do not follow the laws of the State of California.

**Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

**Summary of, and Responses to, Comments Received During the 45-day Comment Period**

No comments were received.

**BOARD OF BARBERING AND COSMETOLOGY**

*Title 16, Division 9 of the California Code of Regulations.*

**SPECIFIC LANGUAGE**

**LEGEND**

<b><u>Underlined</u></b>	<b>Indicates proposed amendments or additions to the existing regulation.</b>
<b><del>Strikeout</del></b>	<b>Indicates proposed deletions to the existing regulation.</b>

**Amend Section 972 of the California Code of Regulations as follows:**

**972. Disciplinary Guidelines**

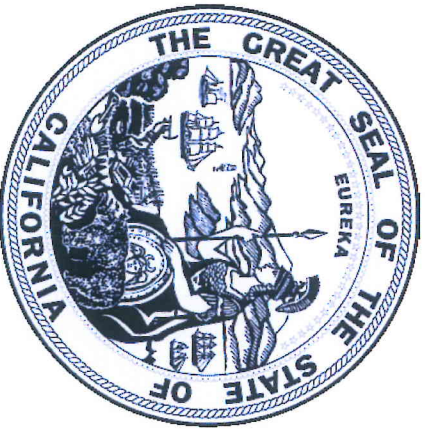
In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines" (~~September, 1998 Edition~~) (October, 2010 Edition) which are hereby incorporated by reference. Deviation from these guidelines, including the standard terms of probation, is appropriate where the board in its sole discretion determines the facts of the particular case warrant such a deviation -- for example: the presence of mitigating factors; the age of the case; evidentiary problems.

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: ~~Section~~ Sections 7403 and 7404, Business and Professions Code.



**ATTACHMENT B**

**State of California  
Department of Consumer Affairs  
Board of Barbering and Cosmetology**



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## INTRODUCTION

The Board of Barbering and Cosmetology (Board) is a consumer protection agency with an obligation to protect the consumers of California from the unsafe, incompetent and/or negligent practices of its licensees. The Board has adopted the following guidelines for disciplinary orders and conditions of probation for violations of the Barbering and Cosmetology Act. The guidelines are intended for the use of those involved in the disciplinary process: Administrative Law Judges, Deputy Attorney Generals, Attorneys for Respondents, licensees and Board staff members.

The Board carefully considers the totality of the facts and circumstances in each individual case, with the safety of the public being paramount. The Board recognizes that the disciplinary orders and conditions of probation listed on the following pages are merely guidelines and that individual cases will require variations, which take into account unique circumstances. Consequently, the Board requests that the Administrative Law Judge hearing the case include an explanation of the deviations or omissions, including all mitigating factors considered by the Administrative Law Judge in the proposed Decision so that the Board is better able to understand the Administrative Law Judge's rationale during his/her review and consideration of the proposed Decision.

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## DESCRIPTION OF PENALTIES

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### REVOCATION

This action revokes a respondent's license(s) and prohibits respondent from conducting services in the practice for which discipline is imposed. Prior to the effective date of the Decision, respondent may request reconsideration or reduction of the penalty. If the Department of Consumer Affairs denies the request or does not grant a reduction of the penalty, the earliest date respondent may petition the Board for reinstatement of the revoked license, is one year from the effective date of the Decision.

### PROBATION

This action, usually taken in conjunction with a stayed revocation or suspension, places a licensee on probation with the Board for up to five years. During the probationary period, Respondent must comply with specific terms and conditions of probation. If the Respondent does not comply with all the terms and conditions of probation, the Board may pursue additional disciplinary action against the Respondent which can result in suspension or revocation of Respondent's license(s).

### SUSPENSION

This action prohibits a licensee from conducting services in the practice for which they have been disciplined for a specific period of time. The licensee must cease operating during the suspension period. License suspensions can be from five (5) to forty-five (45) working days. During the period of suspension, Respondent is required to post a notice which describes the nature of the violation for which Respondent is being disciplined.

### FULL COST RECOVERY

Section 7403 of the Business and Professions Code allows the Board to recover its costs of investigating and adjudicating a disciplinary case. Full cost recovery includes both Division of Investigation and Attorney General costs. A payment schedule can be specified, if warranted.

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## DESCRIPTION OF PENALTIES (Continued)

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### PARTIAL COST RECOVERY

Section 7403 of the Business and Professions Code allows the Board to recover its costs of investigating and adjudicating a disciplinary case. Partial cost recovery in this instance includes Division of Investigation costs only. A payment schedule can be specified, if warranted.

### PUBLIC NOTICE

Any disciplinary action imposed as a result of a Decision may be published in the appropriate Board newsletter or other publication. Additionally, the Board or its designee may issue press releases or other public notices of disciplinary action taken by the Board.

### EXAMINATIONS

This action requires the Respondent to take and pass an examination administered by the examination staff of the Board. Respondent shall pay all costs associated with the examination.

### STAY OF ORDER

This action allows the Board to adopt an order of revocation or suspension but allows the order to be put aside. This means a Respondent has time to serve a lesser penalty, which normally includes probation. However, if the Respondent fails to comply with the terms outlined in the final Decision, the Board or its designee can pursue additional disciplinary action against the Respondent and reinstate the order that was stayed.



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## FACTORS TO BE CONSIDERED

**When considering whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:**

1. Nature and severity of the act(s) or offense(s).
2. Total criminal record.
3. The time that has elapsed since the commission of the act(s) or offense(s).
4. Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
5. If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.
6. Evidence, if any, of rehabilitation submitted by the licensee.

**When considering whether denial of a license is to be imposed, factors such as the following should be considered:**

1. The nature and the severity of the act(s) or crimes(s) under consideration as grounds of denial.
2. Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial.
3. The time that has elapsed since commission of the act(s) or crime(s) referred to in (1) and (2).
4. The extent to which the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.
5. Evidence, if any, of rehabilitation submitted by the applicant.

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## MITIGATION EVIDENCE

The Respondent is permitted to present mitigating circumstances at a hearing. The same opportunity is provided in the settlement process.

The following documents are examples of appropriate evidence the Respondent may submit to demonstrate his or her rehabilitative efforts and competency:

- A) List of improvements made to the Establishment:
  - Policy & Procedures Established
  - Photographs of Improvements
  - Rental Agreements
- B) Declaration stating how Respondent has corrected the violations cited.
- C) Certification of courses completed.
- D) If Respondent was convicted of a criminal offense:
  - A letter describing the underlying circumstances of the arrest(s) as well as any rehabilitative efforts or changes in life since that time to prevent future problems.
  - Letters of reference from past and/or current employers.
  - Evidence of compliance with and completion of terms of probation, parole, restitution or any other sanctions (proof of enrollment/completion of court ordered programs, classes, fines) for each conviction.
  - Letters from recognized recovery programs attesting to current sobriety, length of time of sobriety, and recovery programs, if there has been a history of alcohol or drug abuse.

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## STANDARD CONDITIONS OF PROBATION

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Each disciplinary order is required to contain the introductory language described on page 28 of this pamphlet, as well as the following 16 conditions (for an explanation and recommended language for each condition, turn to pages 29-32):

- 1) Suspension of License
- 2) Posting of Suspension Sign
- 3) Cost Recovery (Does not apply to Applicants)
- 4) Quarterly Reports of Compliance
- 5) Notification to Employer
- 6) Change of Employment
- 7) Participation in Apprenticeship or Externship Program
- 8) Publication of Disciplinary Action
- 9) Obey all Laws
- 10) Comply with the Board's Probation Program
- 11) Violation of Probation
- 12) Report in Person
- 13) Residency Outside of State
- 14) Failure to Practice – California Resident
- 15) Maintain Valid License
- 16) License Surrender

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## OPTIONAL CONDITIONS OF PROBATION

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Any of the optional conditions may be included if relevant to the violation (for an explanation and recommended language for each condition, turn to pages 33-35):

- 1) Remedial Education Courses
- 2) Written Licensing Examination
- 3) Practical Licensing Examination
- 4) Notice to Employees
- 5) Criminal Probation
- 6) Proof of Advertising Correction
- 7) Restitution
- 8) Reimbursement of Probation Program
- 9) Manager or Licensee in Charge
- 10) Abstain from Controlled Substances / Submit to Biological Fluid Testing
- 11) Abstain from Use of Alcohol / Submit to Biological Fluid Testing

## THE BARBERING AND COSMETOLOGY ACT VIOLATIONS AND RECOMMENDED ACTIONS

The Barbering and Cosmetology Act (Business and Professions Code, Division 3, Chapter 10) and additional sections of the Business and Professions Code specify the offenses for which the Board may take disciplinary action. The following are code numbers of the offenses and Board-determined disciplinary action. When filing an accusation, the Office of the Attorney General may also cite additional related statutes and resolutions.

### **7320      If the violation is for the practice of medicine, then the recommended penalty is as follows:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 5 years  
Suspension, 15 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation Nos.  
(1) Remedial Education  
(2) Written Licensing Exam  
(4) Notice to Employees  
(7) Restitution

### **7320.1      If the violation is for the use of metal instruments then the recommended penalty is as follows:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 2 years  
Suspension, 5 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation Nos.  
(1) Remedial Education  
(2) Written Licensing Exam  
(4) Notice to Employees (7) Restitution

## VIOLATIONS AND RECOMMENDED ACTIONS

### **7320.2      If the violation is for practicing illegal treatment methods then the recommended penalty is as follows:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 5 years  
Suspension, 15 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation Nos.  
(1) Remedial Education  
(2) Written Licensing Exam  
(4) Notice to Employees  
(7) Restitution

### **7404(a)      UNPROFESSIONAL CONDUCT**

#### **Recommended Penalty:**

- **Maximum:** Revocation/Denial of License  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 3 years  
Suspension, 5 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation Nos.  
(1) Remedial Education  
(2) Written Licensing Exam  
(4) Notice to Employees  
(5) Criminal Probation



## VIOLATIONS AND RECOMMENDED ACTIONS

**7404(a)(1) INCOMPETENCE OR GROSS NEGLIGENCE, INCLUDING FAILURE TO COMPLY WITH GENERALLY ACCEPTED STANDARDS FOR THE PRACTICE OF BARBERING, COSMETOLOGY, OR ELECTROLOGY OR DISREGARD FOR THE HEALTH AND SAFETY OF PATRONS.**

**Recommended Penalty:**

**Maximum:** Revocation

Full Cost Recovery

• **Minimum:** Revocation, stayed

Probation, 3 years

Suspension, 10 consecutive working days

Partial Cost Recovery

Standard Terms of Probation Nos. 1-16

Optional Terms of Probation Nos.

(1) Remedial Education

(2) Written Licensing Exam

(4) Notice to Employees

(7) Restitution

**7404(a)(2) REPEATED SIMILAR NEGLIGENT ACTS.**

**Recommended Penalty:**

• **Maximum:** Revocation

Full Cost Recovery

• **Minimum:** Revocation, stayed

Probation, 2 years

Suspension, 10 consecutive working days

Partial Cost Recovery

Standard Terms of Probation Nos. 1-16

Optional Terms of Probation Nos.

(1) Remedial Education

(2) Written Licensing Exam

(3) Practical Licensing Exam

(4) Notice to Employees

## VIOLATIONS AND RECOMMENDED ACTIONS

**7404(a)(3) CONVICTION OF ANY CRIME SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS, OR DUTIES OF THE LICENSEHOLDER, IN WHICH CASE, THE RECORDS OF CONVICTION OR A CERTIFIED COPY SHALL BE CONCLUSIVE EVIDENCE THEREOF.**

Conviction of a felony involving a crime of violence (including, but not limited to: murder, attempted murder, assault with a deadly weapon) or prostitution (soliciting) within the past three years or is currently on parole or probation for such a conviction.

**Recommended Penalty:**

• **Maximum:** Revocation

Denial of License

Full Cost Recovery

• **Minimum:** Revocation, stayed

License issued with Terms and Conditions

appropriate to crime

Probation, 3 years

Partial Cost Recovery

Standard Term of Probation Nos. 1-16

Optional Terms of Probation No.

(5) Criminal Probation

Conviction of three or more felonies involving crimes of violence (including, but not limited to: murder, attempted murder, assault with a deadly weapon) or prostitution (soliciting) within the past five years (or six in a ten year period).

**Recommended Penalty:**

• **Maximum:** Revocation

Denial of License

Full Cost Recovery

• **Minimum:** Revocation, stayed

License issued with Terms and Conditions

appropriate to crime

## VIOLATIONS AND RECOMMENDED ACTIONS

### 7404(a)(3) (Continued)

Probation, 5 years  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation No.  
(5) Criminal Probation

Conviction of a crime of a sexual nature (other than those involving a minor) within the past three years or is currently on parole or probation (including, but not limited to: rape, sexual assault, and molestation).

#### **Recommended Penalty:**

- **Maximum:** Revocation  
Denial of License  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
License issued with Terms and Conditions appropriate to crime  
Probation, 5 years  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation No.  
(5) Criminal Probation

Conviction of any crime committed by a licensee in an establishment subject to regulation by the Board.

#### **Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
License issued with Terms and Conditions appropriate to crime  
Probation, 3 years  
Partial Cost Recovery

## VIOLATIONS AND RECOMMENDED ACTIONS

### 7404 (a)(3) (Continued)

Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation No.  
(5) Criminal Probation

### 7404(a)(4) ADVERTISING BY MEANS OF KNOWINGLY FALSE OR DECEPTIVE STATEMENTS.

#### **Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 1 year  
Suspension, 5 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation No.  
(6) Proof of Advertising Correction

### 7404(b)

#### FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS CHAPTER. (All other Business and Professions Code sections cited.)

#### **Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 3 years  
Suspension, 5 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation Nos.  
(2) Written Licensing Exam  
(4) Notice to Employees

**7404(c)**

FAILURE TO COMPLY WITH THE RULES GOVERNING HEALTH AND SAFETY ADOPTED BY THE BOARD AND APPROVED BY THE STATE DEPARTMENT OF HEALTH SERVICES, FOR THE REGULATION OF ESTABLISHMENTS, OR ANY PRACTICE LICENSED AND REGULATED UNDER THIS CHAPTER.

**Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 3 years  
Suspension, 5 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation Nos.  
(2) Written Licensing Exam  
(4) Notice to Employees

**7404(d)**

FAILURE TO COMPLY WITH THE RULES ADOPTED BY THE BOARD FOR THE REGULATION OF ESTABLISHMENTS OR ANY PRACTICE LICENSED AND REGULATED UNDER THIS CHAPTER.

**Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 3 years  
Suspension, 5 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation Nos.  
(2) Written Licensing Exam  
(4) Notice to Employees

**VIOLATIONS AND RECOMMENDED ACTIONS**

**7404(e)**

CONTINUED PRACTICE BY A PERSON KNOWINGLY HAVING AN INFECTIOUS OR CONTAGIOUS DISEASE.

**Recommended Penalty:**

- **Maximum:** License is suspended until Respondent provides written proof from a physician stating he/she is no longer contagious/infectious. Upon verification, license is suspended for 30 consecutive working days.  
Full Cost Recovery  
Standard Terms of Probation Nos. 1-16.
- **Minimum:** License is suspended until Respondent provides written proof from a physician stating he/she is no longer contagious/infectious. Upon verification, license is placed on 1 year probation.  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16.

**7404(f)**

HABITUAL DRUNKENNESS, HABITUAL USE OF OR ADDICTION TO THE USE OF ANY CONTROLLED SUBSTANCE.

**Recommended Penalty:**

- License is suspended until Respondent completes a drug/alcohol rehabilitation program. Upon verification of completion, license is placed on 3 years probation.  
Full Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation No.  
(5) Criminal Probation



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## VIOLATIONS AND RECOMMENDED ACTIONS

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**7404(g)** OBTAINING OR ATTEMPTING TO OBTAIN PRACTICE IN ANY OCCUPATION LICENSED AND REGULATED UNDER THIS CHAPTER, FOR MONEY, OR COMPENSATION IN ANY FORM, BY FRAUDULENT MISREPRESENTATION.

**Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 2 years  
Suspension, 10 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation No. 1-16  
Optional Terms of Probation No.  
(5) Criminal Probation

**NOTE:** If Respondent has a pending application on file, the application shall be denied.

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**7404(h)** FAILURE TO DISPLAY THE LICENSE OR HEALTH AND SAFETY RULES AND REGULATIONS IN A CONSPICUOUS PLACE.

**Recommended Penalty:**

- **Maximum:** Suspension, 5 consecutive working days  
Full Cost Recovery
- **Minimum:** Public Letter of Reprimand  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation No.  
(4) Notice to Employees

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## VIOLATIONS AND RECOMMENDED ACTIONS

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**7404(i)** ENGAGING, OUTSIDE OF A LICENSED ESTABLISHMENT AND FOR COMPENSATION IN ANY FORM WHATSOEVER, IN ANY PRACTICE FOR WHICH A LICENSE IS REQUIRED UNDER THIS CHAPTER, EXCEPT THAT WHEN THE SERVICE IS PROVIDED BECAUSE OF ILLNESS OR OTHER PHYSICAL OR MENTAL INCAPACITATION OF THE RECIPIENT OF THE SERVICE AND WHEN PERFORMED BY A LICENSEE OBTAINED FOR THE PURPOSE FROM A LICENSED ESTABLISHMENT.

**Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 2 years  
Suspension, 5 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation No.  
(4) Notice to Employees

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## VIOLATIONS AND RECOMMENDED ACTIONS

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### 7404(j)

PERMITTING A LICENSE TO BE USED WHERE THE HOLDER IS NOT PERSONALLY, ACTIVELY, AND CONTINUOUSLY ENGAGED IN BUSINESS.

**Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 5 years  
Suspension, 15 consecutive working days  
Full Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation No.  
(4) Notice to Employees

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### 7404(k)

THE MAKING OF ANY FALSE STATEMENT AS TO A MATERIAL MATTER IN ANY OATH OR AFFIDAVIT, WHICH IS REQUIRED BY THE PROVISIONS OF THIS CHAPTER.

**Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 2 years  
Suspension, 5 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16

NOTE: If Respondent has a pending application on file, the application shall be denied.

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## VIOLATIONS AND RECOMMENDED ACTIONS

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### 7404(l)

REFUSAL TO PERMIT OR INTERFERENCE WITH AN INSPECTION AUTHORIZED UNDER THIS CHAPTER.

**Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 2 years  
Suspension, 5 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation No.  
(4) Notice to Employees

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### 7404(m)

ANY ACTION OR CONDUCT WHICH WOULD HAVE WARRANTED THE DENIAL OF A LICENSE.

**Recommended Penalty:**

- **Maximum:** Revocation  
Full Cost Recovery
- **Minimum:** Revocation, stayed  
Probation, 2 years  
Suspension, 5 consecutive working days  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16  
Optional Terms of Probation Nos.  
(4) Notice to Employees  
(5) Criminal Probation

NOTE: If Respondent has a pending application on file, the application shall be denied.

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## VIOLATIONS AND RECOMMENDED ACTIONS

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### 7404(n) FAILURE TO SURRENDER A LICENSE THAT WAS ISSUED IN ERROR OR BY MISTAKE.

#### Recommended Penalty:

- **Maximum:** Revocation  
Full Cost Recovery
  - **Minimum:** Public Letter of Reprimand  
Partial Cost Recovery  
Standard Terms of Probation Nos. 1-16
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### 480(a)(1) BEEN CONVICTED OF A CRIME. A CONVICTION WITHIN THE MEANING OF THIS SECTION MEANS A PLEA OR VERDICT OF GUILTY OR A CONVICTION FOLLOWING A PLEA OF NOLLO CONTENDERE. ANY ACTION WHICH A BOARD IS PERMITTED TO TAKE FOLLOWING THE ESTABLISHMENT OF A CONVICTION MAY BE TAKEN WHEN THE TIME FOR APPEAL HAS ELAPSED, OR THE JUDGEMENT OF CONVICTION HAS BEEN AFFIRMED ON APPEAL, OR WHEN AN ORDER GRANTING PROBATION IS MADE SUSPENDING THE IMPOSITION OF SENTENCE, IRRESPECTIVE OF A SUBSEQUENT ORDER UNDER THE PROVISIONS OF SECTION 1203.4 OF THE PENAL CODE.

#### Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
- **Minimum:** Revocation, stayed  
Probation, 2 years (for misdemeanor)  
3 years (less than 3 felonies)  
5 years (more than 3 felonies)  
Standard Terms of Probation Nos. 4 -16  
Optional Terms of Probation No.  
(5) Criminal Probation

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## VIOLATIONS AND RECOMMENDED ACTIONS

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### 480(a)(2) DONE ANY ACT INVOLVING DISHONESTY, FRAUD OR DECEIT WITH THE INTENT TO SUBSTANTIALLY BENEFIT HIMSELF OR ANOTHER, OR SUBSTANTIALLY INJURE ANOTHER.

#### Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
  - **Minimum:** Revocation, stayed  
Probation, 2 years  
Standard Terms of Probation Nos. 4 -16  
Optional Terms of Probation No.  
(5) Criminal Probation
- 

### 480(a)(3) DONE ANY ACT WHICH IF DONE BY A LICENTATE OF THE BUSINESS OR PROFESSION IN QUESTION, WOULD BE GROUNDS FOR SUSPENSION OR REVOCATION OF LICENSE. THE BOARD MAY DENY A LICENSE PURSUANT TO THIS SUBDIVISION ONLY IF THE CRIME OR ACT IS SUBSTANTIALLY RELATED TO THE QUALIFICATIONS, FUNCTIONS OR DUTIES OF THE BUSINESS OR PROFESSION FOR WHICH APPLICATION IS MADE.

#### Recommended Penalty:

- **Maximum:** Denial of Application for Licensure
- **Minimum:** Revocation, stayed  
Probation, 3 years  
Standard Terms of Probation Nos. 4 -16  
Optional Terms of Probation No.  
(5) Criminal Probation



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**VIOLATIONS AND RECOMMENDED ACTIONS**

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**480(c)**

**A BOARD MAY DENY A LICENSE REGULATED BY THIS CODE ON THE GROUND THAT THE APPLICANT KNOWINGLY MADE A FALSE STATEMENT OF FACT REQUIRED TO BE REVEALED IN THE APPLICATION FOR SUCH LICENSE.**

**Recommended Penalty:**

- **Maximum:** Denial of Application for Licensure
- **Minimum:** Revocation, stayed Probation, 2 years  
Standard Terms of Probation Nos. 4 -16  
Optional Terms of Probation No.  
(5) Criminal Probation

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**496**

**A BOARD MAY DENY, SUSPEND, REVOKE, OR OTHERWISE RESTRICT A LICENSE ON THE GROUND THAT AN APPLICANT OR LICENSEE HAS VIOLATED SECTION 123 PERTAINING TO SUBVERSION OF LICENSING EXAMINATIONS.**

**Recommended Penalty:**

- **Maximum:** Revocation or Denial  
Full Cost Recovery
- **Minimum:** Probation, 2 years  
Suspension, 10 consecutive working days  
Partial Cost Recovery (only if Respondent holds another license)  
Standard Terms of Probation Nos. 4 -16  
Optional Terms of Probation  
(5) Criminal Probation

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**OTHER SITUATIONS IN WHICH REVOCATION IS THE RECOMMENDED PENALTY**

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1. Failure to file a Notice of Defense.
2. Failure to appear at the administrative hearing.
3. Failure to comply with the conditions of probation.
4. Subsequent acts offenses, or convictions, which warrant the revocation of license.

**CONDITIONS OF PROBATION**

The Board's primary responsibility is consumer protection. The Board believes that in disciplinary matters where probation has been imposed, conditions should be established to provide for consumer protection and allow the probationer to demonstrate rehabilitation.

The following conditions of probation provide for consumer protection and establish a mechanism to monitor the rehabilitation progress of a probationer.

For purposes of implementation of these conditions of probation, any reference to the Board also means staff working for the Board of Barbering and Cosmetology.

**PROBATIONARY CONDITIONS**

Probationary conditions are divided into two categories:

- A. **Standard** conditions that appear in all probation orders;
- B. **Optional** conditions that are appropriate to the nature and circumstances of the particular violation.

**INTRODUCTORY LANGUAGE FOR DISCIPLINARY ORDERS**

The following introductory language and all standard conditions of probation are to be included in probationary decisions/orders. For applicants, Condition 3, Cost Recovery, does not apply. For licensees, all standard conditions of probation apply. (Note: See alternative introductory language for applicants and reinstatements in next section of guidelines.)

**INTRODUCTORY LANGUAGE FOR ALL ORDERS** – It is hereby ordered that (license type) License No. (number) issued to Respondent (name) is revoked. However, revocation is stayed and Respondent is placed on probation for a period of (number of years) years on the following conditions.

**SEVERABILITY CLAUSE** – Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

## RECOMMENDED LANGUAGE FOR STANDARD CONDITIONS OF PROBATION

- (1) **SUSPENSION OF LICENSE** - Respondent is suspended from the practice of (type of practice) for (number of days) consecutive working days. Respondent shall cease operating during the suspension period. During the suspension period, all conditions of probation are in full force and effect. The period of suspension shall be determined by the Board's designee and Respondent shall be notified in writing. Probation shall not terminate until the suspension period is served.
- (2) **POSTING OF SUSPENSION SIGN** - During the period of suspension, Respondent shall post a notice which describes the nature of the violation for which the license is being disciplined. If only an individual's license is disciplined, the notice shall be conspicuously posted in the establishment where the Respondent performs barbering and cosmetology services. If an establishment license is disciplined, the notice shall be conspicuously posted, unobstructed and visible to the public from the outside of the main entrance. The sign to be posted will be provided by the Board of Barbering Cosmetology designee prior to the commencement of the suspension and will include the Respondent's name and license number(s).
- (3) **COST RECOVERY** - Respondent shall pay to the Board of Barbering and Cosmetology costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$ \_\_\_\_\_. Upon request, Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than six months prior to the end of the probation term. Probation shall not terminate until full payment has been made. Should any part of cost recovery not be paid in accordance with the outlined payment schedule, Respondent shall be considered to be in violation of probation. Any order for payment of cost recovery shall remain in effect whether or not probation is tolled. The filing of bankruptcy by the Respondent shall not relieve the Respondent of his/her responsibility to reimburse the Board for these costs.
- (4) **QUARTERLY REPORTS OF COMPLIANCE** - Respondent shall submit Quarterly Reports of Compliance to the Board of Barbering and Cosmetology's designee in accordance with a specified schedule. The form, "Quarterly Report of Compliance," which is provided by the Board's Enforcement Program, must be completed and signed under penalty of perjury regarding compliance with all conditions of probation. Omission or falsification in any manner of any information on these reports shall constitute a violation of probation. Quarterly

reports are due for each year of probation and the entire length of probation as follows:

- For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.
  - For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.
  - For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.
  - For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.
- (5) **NOTIFICATION TO EMPLOYER** - Respondent shall be required to inform his/her employer and any subsequent employer during the probation period of the discipline imposed by this Decision by providing the employer with a copy of the Decision and Order in this matter. The employer will be requested to inform the Board of Barbering and Cosmetology, in writing, that he/she is aware of the discipline. This applies to independent contractors (booth renters) as well as employees.
  - (6) **CHANGE OF EMPLOYMENT** - Respondent shall notify the Board of Barbering and Cosmetology in writing of any and all changes in employment status, employment location and address within 30 days of such change.
  - (7) **PARTICIPATION IN APPRENTICESHIP OR EXTERNSHIP PROGRAM** - Respondent shall not participate as a trainer or supervisor in an apprenticeship or externship program during the course of this probation. Respondent shall terminate any such program in existence on the effective date of this decision.
  - (8) **PUBLICATION OF DISCIPLINARY ACTION** - Any disciplinary action imposed as a result of this Decision may be published in the appropriate Board of Barbering and Cosmetology newsletter or other publication. Additionally, the Board or its designee may issue press releases or other public notices of disciplinary action taken by the Board of Barbering and Cosmetology.
  - (9) **OBEY ALL LAWS** - Respondent shall obey all federal, state, local laws and all rules and regulations governing any practice for which the Respondent is licensed. A full and detailed account of any and all violations of law shall be reported by the Respondent to the Board in writing within seventy-two (72) hours of occurrence.
  - (10) **COMPLY WITH THE BOARD'S PROBATION PROGRAM** - Respondent shall fully comply with the conditions of the Probation Program established by the



Board and cooperate with representatives of the Board in its monitoring and investigation of Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within fifteen (15) days of any address change and claim all certified mail issued by the Board. Respondent shall respond to all notices of reasonable requests timely, and submit reports, remedial education documentation, verification of employment, or other similar reports, as requested and directed by the Board or its representative. Failure to appear for any scheduled meeting or cooperate with the requirements of the program, including timely submission of requested information, shall constitute a violation of probation.

- (11) **VIOLATION OF PROBATION** - If Respondent violates the conditions of his/her probation, the Board, after giving the Respondent notice and the opportunity to be heard, may set aside the Order and impose the stayed discipline (revocation/suspension) of the Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against the Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

- (12) **REPORT IN PERSON** - Upon written notification, Respondent may be required to appear in person before the Board of Barbering and Cosmetology or its designee at any time during the period of suspension or probation.

- (13) **RESIDENCY OUTSIDE OF THE STATE** - Respondent shall immediately notify the Board's designee of any and all address changes. If Respondent should travel outside California for a period greater than sixty (60) days, Respondent must notify the Board's designee, in writing, of the dates of departure and return. Periods of residence outside the State of California shall not apply toward a reduction of this probation time period.

Respondent's license shall be automatically cancelled if Respondent's periods of temporary or permanent residence or practice outside California total two years. However, Respondent's license shall not be cancelled as long as Respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

- (14) **FAILURE TO PRACTICE-CALIFORNIA RESIDENT**- In the event Respondent resides in the State of California and for any reason Respondent stops

practicing in California, Respondent shall notify the Board or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation.

- (15) **MAINTAIN VALID LICENSE**- Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees prior to the license expiration date shall constitute a violation of probation.

- (16) **LICENSE SURRENDER**-Following the effective date of this decision, if Respondent ceases practicing due to retirement or health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily request the surrender of his/her license to the Board. The Board reserves the right to evaluate the Respondent's request and to exercise its discretion whether to grant the request or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 30 calendar days deliver Respondent's license to the Board or its designee and Respondent shall no longer engage in any practice for which a license is required. Upon formal acceptance of the tendered license, Respondent will no longer be subject to the terms and conditions of probation. Voluntary surrender of Respondent's license shall be considered to be a disciplinary action and shall become a part of Respondent's license history with the Board. Respondent may not petition the Board for reinstatement of the surrendered license. Should Respondent at any time after voluntary surrender ever reapply to the Board for licensure Respondent must meet all current requirements for licensure including, but not limited to, filing a current application, meeting all current educational requirements, and taking and passing any and all examinations required of new applicants.



## RECOMMENDED LANGUAGE FOR OPTIONAL CONDITIONS OF PROBATION

- (1) **REMEDIAL EDUCATION COURSES** - Respondent shall complete remedial education courses directly relevant to the violation(s) as specified by the Board of Barbering and Cosmetology within 180 days from the effective date of this Decision. The education courses shall be completed in a Board approved school. Respondent shall provide proof of attendance and satisfactory completion of the courses. Failure to satisfactorily complete the required courses as scheduled shall constitute a violation of probation. Respondent shall be responsible for all costs associated with such remedial education.
- (2) **WRITTEN LICENSING EXAMINATION** - If Respondent fails to pass the examination within 180 days from the effective date of this Decision, Respondent's license shall be suspended and Respondent shall cease practice until Respondent takes and successfully passes examination, has submitted proof of same to the Board, and has been notified by the Board that he/she may resume practice. The examination will be administered by the examination staff of the Board of Barbering and Cosmetology. Respondent shall pay the established examination fee and any other costs associated with taking the examination.
- (3) **PRACTICAL LICENSING EXAMINATION** - If Respondent fails to pass the examination within 180 days from the effective date of this Decision, Respondent's license shall be suspended and Respondent shall cease practice until Respondent takes and successfully passes examination, has submitted proof of same to the Board, and has been notified by the Board that he/she may resume practice. The examination will be administered by the examination staff of the Board of Barbering and Cosmetology. Respondent shall pay the established examination fee and any other costs associated with taking the examination.
- (4) **NOTICE EMPLOYEES** - A Respondent who is an establishment owner shall, upon or before the effective date of this Decision, post or circulate a notice to all employees working in the establishment which accurately recites the terms and conditions of this Decision. Respondent shall be responsible for said notice being immediately available to employees. "Employees" as used in this provision includes all full-time, part-time, temporary and independent contractors employed or hired at any time during probation.
- (5) **CRIMINAL PROBATION** - If Respondent is on criminal probation for the acts upon which disciplinary action is based, Respondent shall submit reports from the criminal court probation officer regarding Respondent's progress during criminal probation. Reports shall be filed quarterly and continue until Respondent is no longer on criminal probation or the Board's probation is terminated, whichever occurs first.
- (6) **PROOF OF ADVERTISING CORRECTION** - If the advertising violation that led to the disciplinary action has not been corrected, Respondent shall not practice until proof of correction has been submitted to the Board of Barbering and Cosmetology or its designee.
- (7) **RESTITUTION** - Respondent shall make restitution to any injured party in the amount of (specify amount). Proof of compliance with this term shall be submitted to the Board of Barbering and Cosmetology's designee within (specify time) of the effective date of the Decision. The name and address of the injured party may be inserted in the body of this condition. The amount and time period in which to comply shall be based upon the facts of the case.
- (8) **REIMBURSEMENT OF PROBATION PROGRAM**- Respondent shall reimburse the Board for the hourly costs it incurs in monitoring the probation to ensure compliance for the duration of the probation period. Reimbursement costs shall be \$ \_\_\_\_\_ per year/\$ \_\_\_\_\_ per month.
- (9) **MANAGER OR LICENSEE IN CHARGE**- Respondent shall not act as manager or licensee in charge of any establishment during the course of this probation. Respondent shall terminate any such duties on the effective date of this decision.
- (10) **ABSTAIN FROM CONTROLLED SUBSTANCES / SUBMIT TO BIOLOGICAL FLUID TESTING**- Respondent shall completely abstain from the use or possession of controlled or illegal substances during the period of probation unless lawfully prescribed by a medical practitioner for a bona fide illness. Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board. Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.
- (11) **ABSTAIN FROM USE OF ALCOHOL / SUBMIT TO BIOLOGICAL FLUID TESTING**- Respondent shall completely abstain from the use of alcoholic beverages during the period of probation. Respondent shall immediately submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee. The length of time and frequency will be determined by the Board.

Respondent is responsible for ensuring that reports are submitted directly by the testing agency to the Board or its designee. There will be no confidentiality in test results. Any confirmed positive finding shall constitute a violation of probation.

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## RECOMMENDED LANGUAGE FOR APPLICANTS AND REINSTATEMENTS

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In order to provide clarity and consistency in its decision, the Board of Barbering and Cosmetology recommends the following language in proposed decisions or stipulated agreements for examination applicants, establishment license applicants, and for petitioners for reinstatement who are issued a license that is placed on probation.

■ **Examination Applicants who are placed on probation:**

“The application of Respondent \_\_\_\_\_ for licensure is hereby granted. Upon successful completion of the licensing examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of \_\_\_\_\_ years on the following condition:”

■ **Establishment License Applicants who are placed on probation:**

“The application of Respondent \_\_\_\_\_ for licensure is hereby granted and a license shall be issued to Respondent upon successful completion of all licensing requirements. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of \_\_\_\_\_ years on the following conditions:”

■ **Reinstatement of Licensure with conditions of probation:**

“The application of Respondent \_\_\_\_\_ for reinstatement of license number \_\_\_\_\_ is hereby granted. License number \_\_\_\_\_ shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of \_\_\_\_\_ years on the following conditions:”

It is important to note that in many cases, petitioners for reinstatement have not practiced for at the least one (1) year. It is recommended that Respondent take and successfully complete the licensing examination prior to reinstatement of the license if the case involved consumer harm.

In addition to the licensing examination requirement, it is recommended that Respondent take and successfully complete remedial education courses relevant to the violation(s) prior to reinstatement of the license.

NOTE: If cost recovery was ordered in the revocation or surrender of a license and the cost recovery has not been paid in full by petitioner, a probation condition requiring payment of original cost recovery must be included in the reinstatement and decision.



## **RECOMMENDED LANGUAGE FOR COST RECOVERY FOR SURRENDERS**

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- **When the Order is a surrender of license, cost recovery should be included as follows:**

“If and when Respondent’s license is reinstated, he or she shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code Section 125.3 in the amount of \$ \_\_\_\_\_. Respondent shall be permitted to pay these costs on a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.”

## **TIME FRAMES FOR PETITIONS FOR REINSTATEMENT AND MODIFICATION OF PENALTY**

Pursuant to the California Administrative Procedure Act, Government Code Section 11522, “A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one (1) year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefore, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition or reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.”



BOARD OF BARBERING AND COSMETOLOGY  
FINAL STATEMENT OF REASONS

**Hearing Date:** June 13, 2011

**Subject Matter of Proposed Regulations:** Passing Grades in Examinations

**Sections Affected:** Section 932, California Code of Regulations

**Updated Information**

There is no update to the information contained in the initial statement of reasons.

**Local Mandate**

A mandate is not imposed on local agencies or school districts.

**Small Business Impact**

There is no significant impact to small business.

**Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

**Summary of, and Responses to, Comments Received During the 45-day Comment Period**

**Comment #1**

**Fred Jones, Counsel for the Professional Beauty Federation of California:** Mr. Jones urged the Board to amend the proposed regulation's references to a "practical examination" and "written examination" to better reflect the language of the authorizing statute, Section 7338 of the Business and Professions Code. While not opposed to the inclusion of "criterion-referenced scoring" in regulation, Mr. Jones expressed concern that the proposed regulation might be too vague and undermine or contradict some of the provisions of Section 7338, notably the primacy of the practical portion of the exam.

**Board Response:** *TBD*





PROFESSIONAL BEAUTY  
FEDERATION OF CALIFORNIA

ATTACHMENT C

www.beautyfederation.org

June 10, 2011

California State Board of Barbering and Cosmetology  
Attn: Kevin Flanagan  
2420 Del Paso Road, Suite 100  
Sacramento, CA 95834

Sent Via Facsimile  
(916) 575-7281

Re: OPPOSE – Criterion-Referenced Scoring, Sec 932 Changes

To Whom It May Concern:

The Professional Beauty Federation of California (PBFC) represents every sector of California's beauty industry, including single/multiple/chain salon owners, individual licensees, product manufacturers and distributors, school owners, and beauty school students. As such a broad-based association, we take positions on issues of transcendent importance to the entire beauty industry. The State Board's licensing exam is obviously an issue of such importance to everyone in our industry, since that sets the minimum standards for all of our "behind-the-chair" professionals. Therefore, the PBFC is always concerned about how that exam is developed and graded.

The proposed Regulation change will essentially gut the existing provision that details how the licensing exams are graded, replacing those numerical allocations with a more general notion of "criterion-referenced scoring" of both the written and practical portions of the overall licensing exam. We have some concerns with this proposed language that we strongly suggest should be further clarified before adoption, those being, in short:

1. The current Regulation 932 refers to a written *part* and practical *part* of the exam. The proposed change would refer to separate, written *examination* and practical *examination*. The authorizing statute (B&P Code Section 7338) refers to a practical *demonstration* and a written *test*, so the use of such terms as *test*, *demonstration*, *examination* and *part* should be more exact and consistent.
2. While we have no problems with the inclusion of "criterion-referenced scoring" in Regulation, we fear that by removing the numerical allocations/weighting of the written and practical portions of the overall licensing exam, the clear, statutory mandate for the State Board to place greater emphasis on practical demonstrations for purposes of grading the licensing exam will be undermined (see Sec. 7338: In the "grading of examinations, practical demonstrations shall prevail over written tests"). Most in the beauty industry refer to this issue as Aggregate Scoring (in which the written and practical portions of the exam are added together, with a larger percentage of the overall exam weighted toward the practical demonstrations, thereby placing a greater emphasis on those practical skills for purposes of a final, overall passage score. Several years ago, all five licensed categories enjoyed this form of scoring; today, only Barbers do). Does this two-sentence Regulation, which is suppose to detail how the licensing exams will be graded, provide enough clarity to exam candidates and beauty schools? Frankly, the B & P Code provides much greater detail than this proposed Regulation, some of whose statutory provisions may be undermined or contradicted by this shorter and less detailed change.

We therefore request this proposed Regulation be sent back to the State Board for their further consideration. Thank you.

Sincerely,  
  
FRED JONES  
PBFC Counsel

## BOARD OF BARBERING AND COSMETOLOGY

*Title 16, Division 9 of the California Code of Regulations.*

## SPECIFIC LANGUAGE

## LEGEND

<u>Underlined</u>	Indicates proposed amendments or additions to the existing regulation.
<del>Strikeout</del>	Indicates proposed deletions to the existing regulation.

**Amend Section 932 of the California Code of Regulations as follows:**

**932. Passing Grades in Examinations.**

~~An overall average of 75 percent shall be the passing grade for examinations.~~

~~(a) Examinations consist of two parts: a practical part and a written part.~~

~~(b) If the applicant fails to receive a passing grade for the barbering examination, the applicant will be required to be reexamined in the practical part and the written part of the examination.~~

~~(c) The total possible examination score for the barbering exam consists of 100 points: The practical part is valued at 80 points and the written portion is valued at 20 points.~~

~~(d) If the applicant fails to receive a passing grade but only fails one part of any cosmetology or electrology examination, the applicant will be required to be re-examined only in the part failed, provided the re-examination takes place within one year after the notice of the results of the examination in which the applicant failed one part has been delivered.~~

~~(e) The total possible examination score for any cosmetology or electrology exam consists of 400 points: The practical part is valued at 300 points and the written portion is valued at 100 points.~~

~~(f) To pass any of the cosmetology or electrology examinations, the applicant must achieve at least 300 points overall including a score of at least 225 in the practical part and at least 70 in the written part.~~

(a) Examinations shall consist of a practical examination and a written examination.

(b) The Board shall establish passing scores for examinations based on criterion-referenced scoring methodology.

Note: Authority cited: Sections 7312 and 7340, Business and Professions Code. Reference: Sections 139, 7338, and 7340, 7341 and 7342, Business and Professions Code.





BOARD OF BARBERING AND COSMETOLOGY

FINAL STATEMENT OF REASONS

**Hearing Date:** June 6, 2011

**Subject Matter of Proposed Regulations:** School Curriculums

**Sections Affected:** Sections 950.1, 950.4, 950.5, 950.6 and 962.3, 962.4, 962.5, and 962.6, California Code of Regulations

**Updated Information**

There is no update to the information contained in the initial statement of reasons.

**Local Mandate**

A mandate is not imposed on local agencies or school districts.

**Small Business Impact**

There is no impact to small business.

**Consideration of Alternatives**

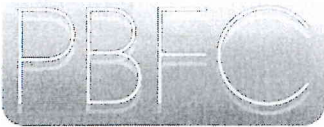
No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

**Summary of, and Responses to, Comments Received During the 45-day Comment Period**

**Comment #1**

**Fred Jones, Counsel for the Professional Beauty Federation of California:** Mr. Jones expressed his organization's strong support for this regulation, which he said would ensure that all students receive the necessary training and education to become proficient and safe beauty-service professionals while providing them and their instructors with the necessary flexibility to be able to properly tailor the educational experience to each particular student's needs and aptitudes.

*Board Response:* The Board accepts this comment



PROFESSIONAL BEAUTY  
FEDERATION OF CALIFORNIA

www.beautyfederation.org

ATTACHMENT D

June 3, 2011

California State Board of Barbering and Cosmetology  
Attn: Kevin Flanagan  
2420 Del Paso Road, Suite 100  
Sacramento, CA 95834

**Sent Via Facsimile**  
(916) 575-7281

Re: SUPPORT Regulation Changes to School/Externship Curricula, Sections 950.1, et seq.

To Whom It May Concern:

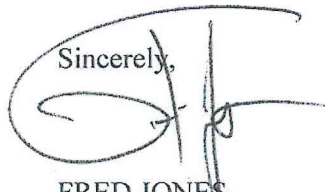
The Professional Beauty Federation of California (PBFC) represents every sector of California's beauty industry, including single/multiple/chain salon owners, individual licensees, product manufacturers and distributors, school owners, and beauty school students. As such a broad-based association, we take positions on issues of transcendent importance to the entire beauty industry.

Having worked closely with the Board and its staff on the above-referenced Reg-changes, we are in strong support of providing schools and students more flexibility in the mandated, State Board of Barbering and Cosmetology (BBC) curriculum. The approach taken in the proposed reforms of the mandated curricula will ensure that all students receive the necessary training and education to become proficient and safe beauty-service professionals, while providing them and their instructors necessary flexibility to be able to properly tailor a student's educational experience to each particular student's needs and aptitudes.

The recent changes to the Cosmetology curriculum reflect this new approach, and it is time to extend this to all of the other 4, BBC-licensed categories.

While the BBC has a legally mandated mission to protect consumers, the era of detailed, hour-by-hour micromanagement of every beauty/barbering school student's education must be drawn to an end. And while this new regulation will not require schools who choose to maintain their current curriculum to alter their program, this new approach will provide other schools the opportunity to begin exercising greater flexibility in meeting the true needs of each individual student.

For these and many other reasons, the PBFC strongly supports the final adoption of these proposed Regulation reforms.

Sincerely,  
  
FRED JONES  
PBFC Counsel

DEPARTMENT OF CONSUMER AFFAIRS  
BOARD OF BARBERING AND COSMETOLOGY  
*Title 16, Division 9, California Code of Regulations*

**Specific Language**

**LEGEND**

<b><u>Underlined</u></b>	<b>Indicates proposed amendments or additions to the existing regulation.</b>
<b><del>Strikeout</del></b>	<b>Indicates proposed deletions to the existing regulation.</b>

**The Board hereby amends Section 950.1 of Article 7 to read as follows:**

950.1 Curriculum for Barbering Course.

~~(a) The curriculum for students enrolled in a barbering course shall consist of fifteen hundred (1500) clock hours of technical instruction and practical operations covering all practices constituting the art of barbering pursuant to Section 7316 of the Barbering and Cosmetology Act.~~

~~(b) For the purpose of this section, technical instruction shall mean instruction by demonstration, lecture, classroom participation, or examination; practical operation shall mean the actual performance by the student of a complete service on another person or on a mannequin.~~

~~(c) The course of instruction in the practical phases of barbering required for a student enrolled in a 1,500-hour course shall cover not less than 1,300 hours including training in basic haircutting and in hairstyling of all textures of hair at the discretion of the school owner or instructor. The practical training shall include performance of the following minimum practical operations:~~

<del>Subject</del>	<del>Minimum Practical Operations</del>
<del>(1) Haircuts and Hairstyles</del>	<del>750</del>
<del>(2) Shaves</del>	<del>40</del>
<del>(3) Rest Facials</del>	<del>20</del>
<del>(4) Shampoos</del>	<del>25</del>
<del>(5) Scalp Manipulations</del>	<del>20</del>
<del>(6) Hair Waving and Curling</del>	<del>20</del>
<del>(7) Hair Coloring and Tinting</del>	<del>5</del>
<del>(8) Hair Processing and Relaxing</del>	<del>5</del>
<del>(9) Application of chemicals used on the hair; hairpieces; measuring, fitting and servicing of hairpieces and rolling cream massages.</del>	

~~All students shall receive sufficient instruction and training in the subjects listed in this section to properly prepare them to apply for and take the examination given by the board and to provide barber services in an establishment.~~



~~(d) The course of instruction in the theory of barbering required for a student enrolled in a 1,500-hour course shall cover not less than 80 hours of instruction in the subjects listed in Section 7316(a) of the code, including razor cutting, hair processing, blow waving and sales techniques. The theory instruction shall include training in sales techniques which may be completed in theory training or practical training at the discretion of the school owner or instructor. The course of instruction shall also include 20 hours of technical instruction in the area of hazardous substances (shall be the course developed by the Board of Barbering and Cosmetology as provided by Section 7389).~~

~~(e) The course of instruction required for a student enrolled in a 1,500-hour course shall cover not less than 120 hours allotted to the practical and/or the theoretical phases of the course in such manner as the owner or instructor considers necessary in the individual case.~~

~~(f) A student shall be properly instructed to cut the hair of and render barber services to all patrons.~~

(a) The curriculum for students enrolled in a barbering course shall consist of fifteen hundred (1500) hours of technical instruction and practical training covering all practices of a barber pursuant to Section 7316 of the Barbering and Cosmetology Act.

(b) For the purpose of this section, technical instruction shall mean instruction by demonstration, lecture, classroom participation, or examination; practical operations shall mean the actual performance by the student of a complete service on another person or on a mannequin. Practical training shall mean the time it takes to perform a practical operation. Technical instruction and practical training shall include the following hours:

(1) 1100 Hours of Technical Instruction and Practical Training in Hair Dressing

The required subjects of instruction in Hair Dressing shall be completed with the minimum hours of technical instruction and practical operations for each subject-matter as follows:

Hairstyling (65 hours of Technical Instruction and 240 Practical Operations):

The subject of Hairstyling shall include, but is not limited to, the following techniques and procedures: Hair analysis, shampooing, finger waving, pin curling, comb outs, straightening, waving, curling with hot combs and hot curling irons and blower styling.

Permanent Waving and Chemical Straightening (40 hours of Technical Instruction and 105 Practical Operations):

The subject of Permanent Waving and Chemical Straightening shall include, but is not limited to, the following techniques and procedures: Hair analysis, acid and alkaline permanent waving, chemical straightening including the use of sodium hydroxide and other base solutions.

Hair Coloring and Bleaching (60 hours of Technical Instruction and 50 Practical Operations):

The subject of Hair Coloring and Bleaching shall include, but is not limited to, the following techniques and procedures (also including, the use of semi-permanent, demi-permanent and temporary colors): Hair analysis, predisposition and strand tests, safety precautions, formula mixing, tinting, bleaching, high and low lights, and the use of dye removers

Hair Cutting (20 hour of Technical Instruction and 80 Practical Operations):

The subject of Hair Cutting shall include, but is not limited to, the following techniques and procedures: Use of scissors, razor (shaper), electrical clippers/trimmers, and thinning (tapering) shears for wet and dry cutting.

(2) 200 Hours of Technical Instruction and Practical Training in Shaving

The required subjects of instruction in Shaving shall be completed with the minimum hours of technical instruction and practical operations for each subject-matter as follows:

Preparation and Performance (100 hours of Technical Instruction and 40 Practical Operations)

The subject of Preparation and Performance shall include, but is not limited to the following techniques and procedures: Preparing the client's hair for shaving, assessing the condition of the clients skin, performing shaving techniques, applying after-shave antiseptic following facial services, massaging the client's face, rolling cream massages.

(3) 200 Hours of Technical Instruction in Health and Safety

The required subjects of instruction in Health and Safety shall be completed with the minimum hours of technical instruction for each subject-matter as follows:

Laws and Regulations (20 hours of Technical Instruction)

The subjects of Laws and Regulations shall include, but is not limited to, the following issues: The Barbering and Cosmetology Act and the Board's Rules and Regulations.

Health and Safety Considerations (45 hours of Technical Instruction)

Health and Safety/hazardous substances including training in chemicals and health in establishments, material safety data sheets, protection from hazardous chemicals and preventing chemical injuries, health and safety laws and agencies, bacteriology and preventing communicable diseases including HIV/AIDS and Hepatitis B.

Disinfection and Sanitation (20 hours of Technical Instruction)

The subject of Disinfection and Sanitation shall include, but is not limited to the following techniques and procedures: Disinfection and sanitation including proper procedures to protect the health and safety of the consumer as well as the technician, proper disinfection procedures for equipment used in establishments.

Disinfection shall be emphasized throughout the entire training period and must be performed before use of all instruments and equipment.

Anatomy and Physiology (15 hours of Technical Instruction)

The subjects of Anatomy and Physiology shall include, but is not limited to the following issues: Human Anatomy, Human Physiology.



(c) The Board recommends that schools provide training in the area of communication skills that includes professional ethics, salesmanship, client record-keeping, decorum, basic tax information relating to booth renters, independent contractors, employees, and employers.

NOTE: Authority cited: Section 7312 and 7362(b), Business and Professions Code. Reference: Sections 7316, 7321.5(d)(1), 7362.5(a) and 7389, Business and Professions Code.

**The Board hereby amends Section 950.4 of Article 7 to read as follows:**

**950.4. Curriculum for Nail Care Course.**

~~(a) The curriculum for students enrolled in a nail care course shall consist of four hundred (400) clock hours of technical instruction and practical operations covering all practices of a manicurist, pursuant to Section 7316 of the Barbering and Cosmetology Act.~~

~~(b) For the purpose of this section, technical instruction shall mean instruction by demonstration, lecture, classroom participation, or examination; practical operation shall mean the actual performance by the student of a complete service on another person or on a mannequin. Such technical instruction and practical operations shall include:~~

	Minimum Hours of Technical Subject Instruction	Minimum Practical Operations
<del>(1) The Barbering and Cosmetology Act and the Board's Rules and Regulations.</del>	<del>10</del>	
<del>(2) Cosmetology Chemistry related to manicuring practices. (Shall include the chemical composition and purpose of nail care preparations.)</del>	<del>10</del>	
<del>(3) Health and Safety/Hazardous Substances (Shall include training in chemicals and health in establishments, material safety data sheets, protection from hazardous chemicals and preventing chemical injuries, health and safety laws and agencies, ergonomics, and communicable diseases, including HIV/AIDS and Hepatitis B.)</del>	<del>15</del>	
<del>(4) Disinfection and sanitation (Shall include procedures to protect the health and safety of the consumer as well as the technician. The ten required minimum operations shall entail performing all necessary functions for disinfecting instruments and equipment as specified in Sections 979 and 980. Disinfection should be emphasized throughout the entire training period and must be performed before use of all instruments and equipment.)</del>	<del>10</del>	<del>10</del>
<del>(5) Bacteriology, anatomy and physiology.</del>	<del>10</del>	
<del>(6) Water and oil manicures, including hand and arm massage.</del>	<del>15</del>	<del>40</del>



(7) Complete pedicure, including foot and ankle massage.	10	20
(8) Application of Artificial Nails		
(A) Acrylic Liquid and powder brush-ons	15	80 Nails
(B) Nail tips	10	60 Nails
(C) Nail wraps and repairs	5	40 Nails

~~(c) The board recommends that schools provide training in the area of communication skills that includes professional ethics, salesmanship, decorum, record keeping, and client service record cards.~~

~~(d) No credit of any type shall be given for time spent in laundering towels or in washing or scrubbing floors, walls, woodwork, toilets, or windows.~~

(a) The curriculum for students enrolled in a nail care course shall consist of not less than four hundred (400) hours of technical instruction and practical training covering all practices of a manicurist, pursuant to Section 7316 of the Barbering and Cosmetology Act.

(b) For the purpose of this section, technical instruction shall mean instruction by demonstration, lecture, classroom participation, or examination; practical operations shall mean the actual performance by the student of a complete service on another person or on a mannequin. Practical training shall mean the time it takes to perform a practical operation. Technical instruction and practical training shall include the following hours:

(1) 300 Hours of Technical Instruction and Practical Training in Nail Care

The required subjects of instruction in Nail Care shall be completed with the minimum hours of technical instruction and practical operations for each subject matter as follows:

Manicures and Pedicures (60 hours of Technical Instruction, 60 Practical Operations and 180 nails)

The subject of Manicures and Pedicures shall include, but is not limited to, the following techniques and procedures: Water and oil manicures including hand and arm massage, complete pedicure including foot and ankle massage, application of artificial nails including liquid, gel, and powder brush-ons, nail tips, nail wraps and repairs, and nail analysis.

(2) 100 Hours of Technical Instruction and Practical Training in Health and Safety

The required subjects of instruction in Health and Safety shall be completed with the minimum number of hours of technical instruction and practical operations for each subject-matter as follows:

Laws and Regulations (10 hours of Technical Instruction)

The subject of Laws and Regulations shall include, but is not limited to, the following issues: The Barbering and Cosmetology Act and the Board's Rules and Regulations.

Health and Safety Considerations (25 hours of Technical Instruction)

The subject of Health and Safety shall include, but is not limited to, the following techniques and procedures: Chemistry pertaining to the practices of a manicurist including the chemical composition and purpose of nail care preparations. Health and Safety/Hazardous Substances, including training in chemicals and health in establishments, material safety data sheets, protection from hazardous chemicals and preventing chemical injuries, health and safety laws and agencies, ergonomics, and communicable diseases, including HIV/AIDS and Hepatitis B.

Disinfection and Sanitation (20 hours of Technical Instruction and 10 Practical Operations)

The subject of Disinfection and Sanitation shall include, but is not limited to, the following techniques and procedures: Procedures to protect the health and safety of the consumer as well as the technician.

The ten required minimum operations shall entail performing all necessary functions for disinfecting instruments and equipment as specified in Sections 979 and 980. Disinfection shall be emphasized throughout the entire training period and must be performed before use of all instruments and equipment, with special attention given to pedicure foot spa and basin disinfection procedures detailed in Sections 980.1, 980.2 and 980.3.

Bacteriology, Anatomy and Physiology (10 hours of Technical Instruction)

The subjects of Anatomy and Physiology shall include, but is not limited to the following issues: Bacteriology, anatomy, physiology, and nail analysis and conditions.

(c) The Board recommends that schools provide training in the area of communication skills that includes professional ethics, salesmanship, decorum, record keeping, client service record cards, basic tax responsibilities related to independent contractors, booth renters, employees, and employers.

Note: Authority cited: Sections 7312, 7362 and 7365, Business and Professions Code. Reference: Sections 7316(c)(2)), 7326(d)(1), 7362, 7365 and 7389, Business and Professions Code.

**The Board hereby amends Section 950.5 of Article 7 to read as follows:**

**950.5. Curriculum for Electrolysis Course.**

(a) The curriculum for students enrolled in an electrolysis course shall consist of six hundred (600) clock hours of technical instruction and practical operations covering all practices of an electrologist pursuant to Section 7316 of the Barbering and Cosmetology Act.

(b) For the purpose of this section, technical instruction shall mean instruction by demonstration, lecture, classroom participation, or examination; practical operation shall mean the actual performance by the student of a complete service on another person. Such technical instruction and practical operations shall include:

**Electrolysis Course Technical Instruction and Practical Operations**

<b>Subject</b>	<b>Minimum Hours of Technical Instruction</b>	<b>Minimum Practical Operations</b>
<del>(1) The Barbering and Cosmetology Act and the Board's Rules and Regulations.</del>	40	



### Electrolysis Course Technical Instruction and Practical Operations

Subject	Minimum Hours of Technical Instruction	Minimum Practical Operations
(2) Health and Safety/Hazardous Substances (Shall include training in chemicals and health in establishments, material safety data sheets, protection from hazardous chemicals and preventing chemical injuries, health and safety laws and agencies, ergonomics, and communicable diseases, including HIV/AIDS and Hepatitis B.)	10	-
(3) Sanitation, disinfection and sterilization (Shall include procedures to protect the health and safety of the consumer as well as the technician. The ten required minimum operations shall entail performing all necessary functions for disinfecting instruments and equipment as specified in Sections 979 and 980. Disinfection should be emphasized throughout the entire training period and must be performed before use of all instruments and equipment.)	25	10
(4) Bacteriology, anatomy and physiology.	25	-
(5) Electricity (Shall include the nature of electrical current, principles of operating electrical devices, and the various safety precautions used when operating electrical equipment.)	15	-
(6) Electrolysis (Shall include the use and study of galvanic current.)	25	45
(7) Thermolysis (Shall include the use and study of high frequency current automatic and manual.)	25	60
(8) A combination of high frequency and galvanic currents	25	60

(c) The board recommends that schools provide training in the area of communication skills that includes professional ethics, salesmanship, decorum, record keeping, and client service record cards.

(d) No credit of any type shall be given for time spent in laundering towels or in washing or scrubbing floors, walls, woodwork, toilets, or windows.

(a) The curriculum for students enrolled in an electrology course shall consist of six hundred (600) hours of technical instruction and practical training covering all practices constituting the art of electrology pursuant to section 7316 of the Barbering and Cosmetology Act.

(b) For the purpose of this section, technical instruction shall mean instruction by demonstration, lecture, classroom participation, or examination; practical operations shall mean the actual performance by the student of a complete service on another person. Practical training shall mean the time it takes to perform a practical operation. Technical instruction and practical training shall include the following hours:



(1) 400 Hours of Technical Instruction and Practical training in Electrolysis, Thermolysis, Blend/Dual Modality and Electricity

The required subjects of instruction in electrolysis, thermolysis, blend/dual modality and electricity shall be completed with the minimum hours of technical instruction and practical operations for each subject-matter as follows:

Electrolysis (45 hours of Technical Instruction and 60 Practical Operations)

The subject of Electrolysis shall include the study of epilation using single and multiple-needle insertion techniques, the use of galvanic current, skin reactions and anaphoresis and cataphoresis, and evaluating a client's health history for compatibility with electrolysis treatments.

Thermolysis (45 hours of Technical Instruction and 60 Practical Operations)

The subject of Thermolysis shall include the study of epilation using automatic and manual thermolysis equipment, insertion techniques, the use of high frequency current in both high and low intensities, skin reactions, and evaluating a client's health history for compatibility with thermolysis treatments.

Blend/Dual Modality (45 hours of Technical Instruction and 60 Practical Operations)

The subject of Blend/Dual Modality shall include the study of epilation using a combination of high frequency and galvanic currents, insertion techniques, skin reactions and anaphoresis and cataphoresis, and evaluating a client's health history for compatibility with blend/dual Modality treatments

Electricity (15 hours of Technical Instruction)

The subject of Electricity shall include the nature of electrical current; principles of operating electrical devices; various safety precautions to be applied when operating electrical equipment, and proper maintenance of equipment.

(2) 200 Hours of Technical Instruction in Health and Safety

The required subjects of instruction in Health and Safety shall be completed with the minimum hours of technical instruction for each subject-matter as follows:

Laws and Regulations (20 Hours of Technical Instruction)

The subject of Laws and Regulations shall include, but is not limited to, the following issues: The Barbering and Cosmetology Act and the Board's Rules and Regulations.

Health and Safety Considerations (45 Hours of Technical Instruction)

The subject of Health and Safety shall include, but is not limited to, bacteriology, and HIV/AIDS, hepatitis, herpes, staphylococcal infections and other communicable diseases and their prevention, ergonomics, electrical safety and Material Safety Data Sheets.

Sterilization (20 Hours of Technical Instruction)

The subject of Sterilization shall include, but is not limited to, the study of proper procedures and techniques for protecting the health and safety of the consumer as well as the technician, and sanitizing equipment used in establishments.

Sterilization and sanitation shall be emphasized throughout the entire training period and must be performed on all instruments and equipment before use. Sterilization times and dates should be monitored and be recorded.

Anatomy and Physiology (20 Hours of Technical Instruction)

The subjects of Anatomy and Physiology shall include but is not limited to human anatomy and physiology, dermatology and the analysis of skin and hair, and the study of the circulatory, nervous, and endocrine systems.

(c) The Board recommends that schools provide training in the area of communication skills that includes professional ethics, consultation, pre- and post-treatment care, salesmanship, decorum, record keeping, client service records, business skills, and basic tax information relating to independent contractors, employees and employers.

NOTE: Authority cited: Sections 7312 and 7362, Business and Professions Code. Reference: Sections 7316(d), 7330(d)(1), 7362, 7366, and 7389, Business and Professions Code

**The Board hereby deletes Section 962.3 of Article 8.5 as follows:**

~~962.3 Externship Curriculum for Cosmetology Students.~~

~~(a) Total clock hour credit toward graduation for a student extern participating in a cosmetology externship program is limited to 160 hours.~~

~~(b) For purposes of this section, technical instruction shall mean instruction by demonstration, lecture, student extern participation or examination; practical operations required shall mean the actual performance by the student extern of a complete service on another person. Technical instruction and practical operations required to be covered in the externship program for cosmetology student externs, as well as the maximum credit to be gained in each area, include:~~

	<b>Maximum Hours of Technical Instruction</b>	<b>Maximum Practical Operations</b>
Disinfection and Sanitation	2	4
Wet Hair Styling	10	20
Thermal Hair Styling	10	10
Press and Curl	0	3

Permanent Waving	10	10
Chemical Straightening	-4	-5
Haircutting	10	10
Hair coloring and Bleaching	10	8
Scalp and Hair Treatments	0	2
Facials (Manual)	1	1
Facials (Electrical)	1	2
Facials (Chemical)	1	2
Eyebrow Arching and Hair Removal	1	2
Makeup	2	1
Manicuring (Water and Oil)	1	2
Pedicure	1	2
Acrylic Nails	2 nails	5 nails
Artificial Nail Tips	2 nails	5 nails
Nail Wraps and Repair	1 nail	2 nails

~~NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7395.1, Business and Professions Code.~~

**The Board hereby deletes Section 962.4 of Article 8.5 as follows:**

~~962.4 Externship Curriculum for Skin Care Students.~~

~~(a) Total clock hour credit toward graduation for a student extern participating in a skin care externship program is limited to 60 hours.~~



(b) For purposes of this section, technical instruction shall mean instruction by demonstration, lecture, student extern participation or examination; practical operations required shall mean the actual performance by the student extern of a complete service on another person. Technical instruction and practical operations required to be covered in the externship program for skin care student externs, as well as the maximum credit to be gained in each area, include:

	Maximum Hours of Technical Instruction	Maximum Practical Operations
Disinfection and Sanitation	2	2
Facials—Manual	8	8
Facials—Electrical	4	6
Facials—Chemical	4	4
Eyebrow Arching & Hair Removal		
(Tweezers)	4	5
(Wax and Depilatories)	8	6
Make up	8	6

NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7395.1, Business and Professions Code.

**The Board hereby deletes Section 962.5 of Article 8.5 as follows:**

**962.5 Externship Curriculum for Nail Care Students.**

(a) Total clock hour credit toward graduation for a student extern participating in a nail care externship program is limited to 40 hours.

(b) For purposes of this section, technical instruction shall mean instruction by demonstration, lecture, student extern participation or examination; practical operations required shall mean the actual performance by the student extern of a complete service on another person. Technical instruction and practical operations required to be covered in the externship program for nail care student externs, as well as the maximum credit to be gained in each area, include:

	Maximum Hours of Technical Instruction	Maximum Practical Operations
Disinfection and Sanitation	4	2
Water and Oil Manicures	3	6
Pedicures	3	3
Acrylic Nails	4 nails	8 nails
Artificial Nail Tips	4 nails	6 nails
Nail Wraps and Repair	3 nails	4 nails

NOTE: Authority cited: ~~Section 7312, Business and Professions Code.~~ Reference: ~~Section 7395.1, Business and Professions Code.~~

**The Board hereby deletes Section 962.6 of Article 8.5 as follows:**

~~962.6 Externship Curriculum for Cosmetology Crossover Course for Barber Students.~~

~~(a) Total clock hour credit toward graduation for a student extern participating in a cosmetology crossover course externship program is limited to 40 hours.~~

~~(b) For purposes of this section, technical instruction shall mean instruction by demonstration, lecture, student extern participation or examination; practical operations required shall mean the actual performance by the student extern of a complete service on another person. Technical instruction and practical operations required to be covered in the externship program for nail care student externs, as well as the maximum credit to be gained in each area, include:~~

	Maximum Hours of Technical Instruction	Maximum Practical Operations
Disinfection and Sanitation	2	4
Wet Hair Styling	4	4

<del>Thermal Hair Styling</del>	<del>1</del>	<del>2</del>
<del>Press and Curl</del>	<del>1</del>	<del>3</del>
<del>Permanent Waving</del>	<del>1</del>	<del>2</del>
<del>Chemical Straightening</del>	<del>1</del>	<del>2</del>
<del>Haircutting</del>	<del>0</del>	<del>1</del>
<del>Haircoloring and Bleaching</del>	<del>2</del>	<del>2</del>
<del>Facials (Chemical)</del>	<del>1</del>	<del>2</del>

~~NOTE: Authority cited: Section 7312, Business and Professions Code. Reference: Section 7395.1, Business and Professions Code.~~





BOARD OF BARBERING AND COSMETOLOGY

ATTACHMENT E

**FINAL STATEMENT OF REASONS**

**Hearing Date:** No hearing scheduled

**Subject Matter of Proposed Regulations:** Unregulated Services

**Sections Affected:** Section 966, California Code of Regulations

**Updated Information**

There is no update to the information contained in the initial statement of reasons. No request for a hearing on this regulation was made by any member of the public.

**Local Mandate**

A mandate is not imposed on local agencies or school districts.

**Small Business Impact**

There is no significant impact to small business.

**Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

**Summary of, and Responses to, Comments Received During the 45-day Comment Period**

**Comment #1**

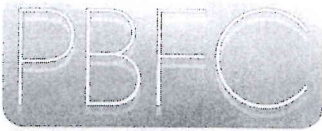
**Fred Jones, Counsel for the Professional Beauty Federation of California:** Mr. Jones expressed his organization's opposition to the regulation unless amended by the Board. Mr Jones noted that although the Board might not regulate a service, it might be regulated by another entity. He recommended changing the title of the sign referenced in the proposed regulation, which he said might lead a consumer to think the services listed were not regulated at all, when in fact they might be. He also recommended amending the text of the proposed sign to read as follows: "The following services offered in this establishment or school are not regulated by the California State Board of Barbering and Cosmetology, but may be regulated by local government agencies, including the county health department."

*Board Response: TBD*

**Comment #2**

**Brian Stiger, Acting Director of the California Department of Consumer Affairs (DCA):** Mr. Stiger said DCA recommends that the Board amend the regulation to require cosmetology establishments list the entities that regulate services not regulated by the Board, where they exist, as well as those entities' contact information.

*Board Response: TBD*



PROFESSIONAL BEAUTY  
FEDERATION OF CALIFORNIA

www.beautyfederation.org

ATTACHMENT E

June 3, 2011

California State Board of Barbering and Cosmetology  
Attn: Kevin Flanagan  
2420 Del Paso Road, Suite 100  
Sacramento, CA 95834

**Sent Via Facsimile**  
(916) 575-7281

Re: OPPOSE Unless Amended – Posting re: BBC Unregulated Services, Sec 966

To Whom It May Concern:

The Professional Beauty Federation of California (PBFC) represents every sector of California's beauty industry, including single/multiple/chain salon owners, individual licensees, product manufacturers and distributors, school owners, and beauty school students. As such a broad-based association, we take positions on issues of transcendent importance to the entire beauty industry.

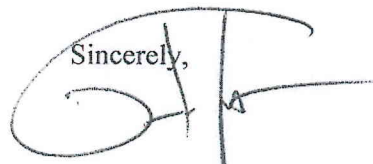
Beauty-related salons are heavily regulated establishments, both by county health departments and other municipal agencies, as well as the State Board of Barbering & Cosmetology (hereafter "BBC") and federal agencies. Several of these governing bodies require postings to the public/consumers. It is not atypical for some California communities to require their salons to post as many as 15 such notices (when state and federal postings are taken into account). Besides being an aesthetic challenge for beauty salons concerned about appearances, the number of such notices makes it difficult for consumers to grasp all of the various warnings and disclosures. Therefore, if any additional notices will be required to be posted, they should be as clear and concise as possible.

On the clarity score, this proposed Regulation fails in its current form. It is not necessarily accurate to state that all non-BBC regulated activities are simply "unregulated services," as the proposed regulation is entitled. County governments license and regulate both massage and tattoo services, including those found in BBC-licensed establishments.

The PBFC recommends either the title be removed altogether or that a new title be substituted (something like "State Regulated Services"). Additionally, we request the language of the notice be amended as follows:

The following services offered in this establishment or school are not regulated by the California State Board of Barbering and Cosmetology, but may be regulated by local government agencies, including the county health department.

We therefore request this proposed Regulation be sent back to the State Board for their further consideration. Thank you.

Sincerely,  
  
FRED JONES  
PBFC Counsel





June 02, 2011

Mr. Kevin Flanagan  
Board of Barbering and Cosmetology  
2420 Del Paso Road, Suite 100  
Sacramento, CA 95834

RE: Unregulated Services 16 CCR § 966

Dear Mr. Flanagan:

The Department of Consumer Affairs urges the Board of Barbering and Cosmetology (Board) make the following amendments to their proposed regulations in 16 CCR § 966: (1) require the establishment to list the entities regulating services not regulated by the Board and (2) require the listing of the regulating entities' contact information. Should no regulating entity be available, then the establishment could list that there is no regulating entity.

Thank you for the opportunity to comment on the Board's proposed rulemaking. If you have any questions, please contact Richard Woonacott, Deputy Director, Division of Legislative and Policy Review at (916) 574-7800.

Sincerely,

A handwritten signature in black ink that reads 'Brian J. Stiger'.

BRIAN J. STIGER, Acting Director  
Department of Consumer Affairs

BJS:kd

cc: Richard Woonacott

✓ Kristy Underwood, Executive Officer, Board of Barbering and Cosmetology

**BOARD OF BARBERING AND COSMETOLOGY**

***Title 16, Division 9 of the California Code of Regulations.***

**SPECIFIC LANGUAGE**

**Adopt Section 966 of the California Code of Regulations as follows:**

966. Unregulated Services.

- a) "Unregulated services" are those services not defined as the practice of barbering, cosmetology or electrolysis under Section 7316 of the California Business and Professions Code. These include, but are not limited to, massage therapy, and permanent make-up or tattooing.
- b) All unregulated services that are performed within an establishment or school shall be clearly identified as unregulated services and listed on a sign displayed conspicuously at the workstation where services are performed. The list of unregulated services shall be preceded by the following text in lettering at least one-half inch high: "Unregulated services: The following services offered in this establishment or school are not regulated by the California State Board of Barbering and Cosmetology."

Note: Authority cited: Sections 7312 and 7303.1, Business and Professions Code. Reference: Sections 7316, 7317, 7346 and 7404, Business and Professions Code.





## BOARD OF BARBERING AND COSMETOLOGY

**FINAL STATEMENT OF REASONS**

**Hearing Date:** No hearing scheduled

**Subject Matter of Proposed Regulations:** Dishonored Check Fee

**Sections Affected:** Section 999, California Code of Regulations

**Updated Information**

No hearing was scheduled on this rulemaking proposal and no one requested a hearing.

The Initial Statement of Reasons is included in the file and the information contained therein is updated as follows:

The Board is proposing to increase the dishonored check fee from \$10 to \$25, the amount charged by the Department of Consumer Affairs. The actual cost of processing a dishonored check is well over \$10, considering the various processes that must be followed to record the check. The benefit is that the new fee will be in line with actual cost of processing the dishonored check. The alternative — leaving the fee at \$10 — is not cost effective as it does not come close to covering the actual cost of recovering bad checks. The actual cost to the Department of Consumer Affairs to recover bad checks is \$28.76. If the fee remains at \$10, the Board's cost of processing dishonored checks would be underfunded by \$18.76 per check.

**Local Mandate**

A mandate is not imposed on local agencies or school districts.

**Small Business Impact**

There is no economic impact on small business. This regulation only applies to individuals or establishments who do not follow the laws of the State of California.

**Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

**Summary of, and Responses to, Comments Received During the 45-day Comment Period**

No comments were received.

**BOARD OF BARBERING AND COSMETOLOGY**

*Title 16, Division 9 of the California Code of Regulations.*

**SPECIFIC LANGUAGE**

**LEGEND**

<b><u>Underlined</u></b>	Indicates proposed amendments or additions to the existing regulation.
<b><del>Strikeout</del></b>	Indicates proposed deletions to the existing regulation.

**Amend Section 999 of the California Code of Regulations as follows:**

**999. Charge for Dishonored Check**

The charge for the return of a personal check without payment shall be ~~ten dollars (\$10).~~ an amount set by the Department of Consumer Affairs in accordance with the laws of the State of California. This charge is required in addition to the reimbursement of the dishonored check.

NOTE: Authority cited: Section 7312, Business and Professions Code; Section 1719, Civil Code. Reference: Section 6157, Government Code.



State and Consumer Services Agency – Governor Edmund G. Brown Jr.  
**Board of Barbering and Cosmetology-Department of Consumer Affairs**  
PO Box 944226, Sacramento, CA 94244  
P (800) 952-5210 F (916) 574-7574 | [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov)



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## MEMORANDUM

DATE: July 11, 2011

TO: Members, Board of Barbering and Cosmetology

FROM: Kristy Underwood, Executive Officer *KU*  
Board of Barbering and Cosmetology

SUBJECT: Manicuring Technical Advisory Committee–Industry Bulletins

At the April 2011 Board Meeting a report was provided to the Board with recommendations from the Manicuring Technical Advisory Committee. As a result, Board staff has prepared the attached Industry Bulletins. Upon approval of the Board, these bulletins will be placed on the Board's website in an effort to provide information to licensees.



### **Industry Bulletin 6/1/2011- Disinfecting Nail Files**

The Board of Barbering and Cosmetology (Board) has received no scientific data that indicates nail files manufactured of porous material can be disinfected in a manner that would prevent the harboring or growth of bacteria. Porous material is a material that has minute spaces or holes through which liquid may pass (for example; emery boards, pumice stones, orange wood sticks).

California Code of Regulations section 981 states:

“All instruments and supplies which come into direct contact with a patron and cannot be disinfected (for example, cotton pads, sponges, emery boards, and neck strips) shall be disposed of in a waste receptacle immediately after use.”

Until the Board receives valid data that a porous file can be disinfected, the Board takes the following position:

All items that are made of porous material must be disposed of immediately after use on a single client. Items that are made of porous material must not be used on more than one client regardless if the item is stamped “disinfectable”.

### **Industry Bulletin 6/1/2011- Detox Foot Spas**

The Board of Barbering and Cosmetology (Board) would like to remind licensees that the latest trend of foot spas that detoxify the body is not within the scope of practice of any Board licensee.

Manufacturers of detox foot baths or spas state that the equipment provides health benefits such as weight loss, pain relief, and increased immunity. The Board would like to stress that these types of benefits are within the health care field and not within the scope of a Board licensee.

Board licensees should remember that any practice of medicine may lead to an administrative fine and possible disciplinary action against your license. While the Board does not have a position on the actual foot detox baths/spas, they caution licensees on making any claims that a service will provide a health benefit.

### **Industry Bulletin 6/1/2011- Callus Removal**

The Board of Barbering and Cosmetology (Board) would like to remind licensees that at no time does your Board license allow you to remove a callus. This includes when a client asks you to perform the service. The removal of a callus is a medical procedure and thereby strictly prohibited by any Board licensee.

As a licensee, you may smooth a callus; however, the Board does not allow the use of a callus shaver/razor or rasp. Licensees may smooth a callus through the use of a liquid callus smoothing product. Licensees should remember that when using products, you should always follow the manufacturer's directions.

Again, as a licensee of the Board you can SMOOTH but not REMOVE a callus.



### **Industry Bulletin 6/1/2011- Reminder that Needles are Prohibited**

The Board of Barbering and Cosmetology would like to remind licensees that the use of needles for the purpose of extracting skin blemishes is strictly prohibited.

Section 993 of the California Code of Regulations states that: "No establishment or school shall have on the premises any needle-like instrument which is used for the purpose of extracting skin blemishes and other similar procedures."

Individual licensees as well as salon owners should note that using a needle, such as a lancet or needle-tip tweezers, while extracting skin blemishes is not within the scope of practice for a cosmetologist or esthetician. Needles are tools that are considered to be invasive and should not be used in the salon.

If needles are found, licensees and owners are subject to an administrative fine and possible discipline.




**Board of Barbering and Cosmetology**  
PO Box 944226, Sacramento, CA 94244  
P (800) 952-7574 F (916) 574-7574 | [www.barbercosmo.ca.gov](http://www.barbercosmo.ca.gov)

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## MEMORANDUM

TO: Members, Board of Barbering and Cosmetology Date: July 11, 2011

FROM: Kristy Underwood, Executive Officer   
Board of Barbering and Cosmetology

SUBJECT: Written Examination at 1200 Hours

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At the April 2011 board meeting, members asked staff to look into the possibility of allowing cosmetology students to take the written examination upon completion of 1200 hours of education. Listed below are brief descriptions of what would be required to make this change. This information is being provided only to facilitate this discussion:

### Legislative Change:

Section 7321 requires a completed course in cosmetology to allow for admittance into the examination. This section would have to be amended to allow for the written examination to be completed prior to full completion of the cosmetology course.

### Fiscal Impact:

Programming changes would be required to the current databases that are utilized by the Board. The Department of Consumer Affairs is currently pursuing a new database (Breeze) therefore; it is not likely that current systems can be modified. Costs for programming are unknown at this time.

### Computer Based Testing Contract Amendment:

It is assumed that the current contract for the administration of the computer based testing will require an amendment. Also, programming changes will be required for both the vendor and the Board's examination site.

### Processing Change:

Significant changes will be required among Board staff to implement this change. Currently, applications are processed and scheduled at the same time. In order to allow the written examination to be conducted prior to completion, the process would take two steps. The Licensing staff would be required to process the application for the written examination and notify the computer based testing vendor of the candidate's eligibility and then separately process the scheduling for the practical examination. However, processing of applications under this change will depend on the system capabilities of the new database.



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## MEMORANDUM

TO: Members, Board of Barbering and Cosmetology Date: July 11, 2011

FROM: Kristy Underwood, Executive Officer  
Board of Barbering and Cosmetology

SUBJECT: Externs in Public Schools

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### **Purpose**

At the April 25, 2011 meeting, the Board asked staff to provide a recommendation on how to allow the extern program to be offered to students of public schools.

### **Background**

Currently, the extern program allows a student who is enrolled in a school of cosmetology approved by the Bureau of Private Postsecondary Education and in a course approved by the board, may upon completion of a minimum of 60% of clock hours, work as an unpaid extern in a cosmetology establishment.

In order for the extern program to be extended to public schools, a statute change is required. Staff recommends an amendment to Business and Professions Section 7395.1 to show that the extern must be enrolled at a school approved by the board as defined in Business and professions Code section 7362.

A school approved by the board is currently defined as a school licensed by the BPPE or a public school in this state, and provides a course of instruction approved by the board.

### **Action**

Upon approval from the Board of the proposed language in Attachment A, Board staff will pursue a legislative proposal for the 2012 legislative session.



## **Business and Professions Code Section 7395.1 Externs**

Attachment A

(a) A student who is enrolled in a school of cosmetology approved by the Board as defined in section 7362 ~~the Bureau for Private Postsecondary and Vocational Education~~ in a course approved by the board may, upon completion of a minimum of 60 percent of the clock hours required for graduation in the course, work as an unpaid extern in a cosmetology establishment participating in the educational program of the school of cosmetology.

(b) A person working as an extern shall receive clock hour credit toward graduation, but that credit shall not exceed eight hours per week and shall not exceed 10 percent of the total clock hours required for completion of the course.

(c) The externship program shall be conducted in cosmetology establishments meeting all of the following criteria:

(1) The establishment is licensed by the board.

(2) The establishment has a minimum of four licensees working at the establishment, including employees and owners or managers.

(3) All licensees at the establishment are in good standing with the board.

(4) Licensees working at the establishment work for salaries or commissions rather than on a space rental basis.

(5) No more than one extern shall work in an establishment for every four licensees working in the establishment. No regularly employed licensee shall be displaced or have his or her work hours reduced or altered to accommodate the placement of an extern in an establishment. Prior to placement of the extern, the establishment shall agree in writing sent to the school and to all affected licensees that no reduction or alteration of any licensee's current work schedule shall occur. This shall not prevent a licensee from voluntarily reducing or altering his or her work schedule.

(6) Externs shall wear conspicuous school identification at all times while working in the establishment, and shall carry a school laminated identification, that includes a picture, in a form approved by the board.

(d) (1) A school participating in the externship program shall provide the participating establishment and the extern with a syllabus containing applicable information specified in Section 73880 of Title 5 of the California Code of Regulations. The extern, the school, and the establishment shall agree to the terms of and sign the syllabus prior to the extern beginning work at the establishment. No less than 90 percent of the responsibilities and duties of the extern shall consist of the acts included within the practice of cosmetology as defined in Section 7316.

(2) The establishment shall consult with the assigning school regarding the extern's progress during the unpaid externship. The owner or manager of the establishment shall monitor and report on the student's progress to the school on a regular basis, with assistance from supervising licensees.

(3) A participating school shall assess the extern's learning outcome from the externship program. The school shall maintain accurate records of the extern's educational experience in the externship program and records that indicate how the extern's learning outcome translates into course credit.

(e) Participation in an externship program made available by a school shall be voluntary, may be terminated by the student at any time, and shall not be a prerequisite for graduation.

(f) The cosmetology establishment that chooses to utilize the extern is liable for the extern's general liability insurance, as well as cosmetology malpractice liability insurance, and shall furnish proof to the participating school that the establishment is covered by both forms of liability insurance and that the extern is covered under that insurance.

(g) (1) It is the purpose of the externship program authorized by this section to provide students with skills, knowledge, and attitudes necessary to acquire employment in the field for which they are being trained, and to extend formalized classroom instruction.

(2) Instruction shall be based on skills, knowledge, attitudes, and performance levels in the area of cosmetology for which the instruction is conducted.

(3) An extern may perform only acts listed within the definition of the practice of cosmetology as provided in Section 7316, if a licensee directly supervises those acts, except that an extern may not use or apply chemical treatments unless the extern has received appropriate training in application of those treatments from an approved cosmetology school. An extern may work on a paying client only in an assisting capacity and only with the direct and immediate supervision of a licensee.

(4) The extern shall not perform any work in a manner that would violate law.

---



*No Attachment*